



JUSTICE

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ACTUALITÉS - REPORT

No.4

CANADIAN CRIMINAL JUSTICE ASSOCIATION - ASSOCIATION CANADIENNE DE JUSTICE PÉNALE

POLICE CORRECTIONS RECONCILIATION



The JUSTICE REPORT contains information of value to Association readers and the public interested in matters related to the administration of justice in Canada. Opinions expressed in this publication do not necessarily reflect the Association's views, but are included to encourage reflection and action on the criminal justice system throughout Canada.

For more information on the activities of the CCJA, please contact:

L'ACTUALITÉS JUSTICE renferme des renseignements utiles aux lecteurs de l'Association et au public qui s'intéressent aux questions relatives à l'administration de la justice au Canada. Les opinions qui sont exprimées ne reflètent pas nécessairement les vues de l'Association, mais y figurent afin d'encourager à réfléchir et à agir sur la justice pénale dans tout le Canada.

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EDITORIAL

IRVING KULIK

CCJA Executive Director

After more than three years of planning and managing challenges in the face of COVID 19, I am thrilled to write that our congress was an overwhelming success. While CCJA was responsible for most of the planning and managing, including risk management, the professional links of the Confederation of European Probation (CEP) and International Corrections and Prisons Association (ICPA) ensured such a positive outcome. By joining CCJA's 38th Criminal Justice Congress with the 5th World Congress on Probation and Parole, we combined the strengths of the World Congress Advisory Group and Canadian Criminal Justice Association. As a result, we attracted world-class headline speakers and presenters. Indeed, 32 countries were represented, far more than usual for us from outside Canada and the United States.

This was the 9th biennial Congress I have had the honour and responsibility to organize in my role as Executive Director of the CCJA. While each brought its set of challenges and rewards, this one, particularly because our reputation was on the line internationally, was the most impactful. Its outcome was also the most satisfying. It is quite a learning experience to deal with foreign government protocols/conditions and the different needs of international participants – not to mention our own COVID travel obstacles. Whereas in better times we exceed 500 participants, being able to welcome almost 350 from countries in Europe, Asia, Africa, South America and of course North America, will go down in CCJA's history. With the comments I received from so many attendees, I can certainly

confirm the quality of this Congress. If you were there you will certainly agree. If you missed the event, presentations are available for viewing on our website, including the many keynote videos.

Historically CCJA congresses were co-hosted by our Ottawa office and our provincial affiliates. For the last few we have also involved and partnered with outside organizations including the Société de Criminologie du Québec, the Ministry of Children and Youth Services in Ontario and now the World Congress body. With the resources required for successful delivery of a major criminal justice conference in Canada, I believe we will need to pursue this vein in the future, and we are exploring just such an approach for 2024.

CCJA's Twitter and the photos included in this issue of the *JUSTICE Report* will give you a small glimpse of some of the happenings at Congress, however, I would encourage you to check out our website for the presentations.

I would like once again to take this opportunity to thank our partners at the Parole Board of Canada, Correctional Service of Canada, Public Safety Canada, the International Corrections and Prisons Association and of course the Confederation of European Probation. A special thank you also goes out to Dr. Frank Porporino who left his European home to be opening keynote speaker and to Howard Sapers our Willie Gibbs Lifetime Achievement Award recipient and banquet speaker. Finally I must acknowledge the very moving speech by Robert Diaz, recipient of the Restoration Award, and the emotional presentations by Indigenous Elder, Dan Ross.

Aside from the Congress pictures, this issue of the *JUSTICE Report* offers a lengthy CCJA Interview with Anil Anand¹ along with a selection of articles related to the complex issues facing the Canadian criminal justice system today. ■

NOTES

1. Author, speaker and leadership/change management coach with 29 years of policing experience with the Toronto Police Service.



ÉDITORIAL

IRVING KULIK

Directeur général de l'ACJP

Après plus de trois ans de planification et de gestion des défis face au COVID 19, je suis ravi d'écrire que notre congrès a été un succès retentissant. Alors que l'ACJP était responsable de la plupart de la planification et de la gestion des événements y compris la gestion du risque, ce sont les liens professionnels de la Confédération européenne de probation (CEP) et de l'International Association of Corrections and Prisons (ICPA) qui en ont fait un tel succès. En joignant le 38^e Congrès sur la justice pénale de l'ACJP avec le 5^e Congrès mondial sur la probation et la libération conditionnelle, nous avons combiné les forces du groupe consultatif du Congrès mondial et celles de l'Association canadienne de justice pénale. Voilà comment nous avons attiré tant des conférenciers et des présentateurs de renommée mondial. En effet, 32 pays étaient représentés, un nombre beaucoup plus élevé que d'habitude pour nous à l'extérieur du Canada et des États-Unis.

Il s'agissait du 9^e congrès biennal que j'ai eu l'honneur et la responsabilité d'organiser en tant que directeur général de l'ACJP. Bien que chacun ait eu leur part de défis et de récompenses, celui-ci était le plus percutant parce que notre réputation était en jeu à l'échelle internationale. Il s'agit en outre du résultat le plus satisfaisant. Gérez des protocoles et des conditions des gouvernements étrangers ainsi que les divers besoins des participants internationaux constitue une expérience d'apprentissage, sans parler de nos propres obstacles aux voyages liés à la COVID-19. Alors qu'en temps normal, nous dépassons les 500 participants, le fait de pouvoir accueillir près de 350 personnes

venant de pays d'Europe, d'Asie, d'Afrique, d'Amérique du Sud et bien sûr d'Amérique du Nord s'agit d'un événement majeur dans l'histoire de l'ACJP. Les commentaires que j'ai reçus de nombreux participants confirment sans aucun doute la qualité de ce congrès. Si vous étiez là, vous en conviendriez sûrement. Si vous avez manqué cet événement, de nombreuses présentations seront disponibles sur notre site Web, incluant de nombreuses vidéos des conférenciers/ères d'honneur.

Historiquement, nos conventions étaient organisées conjointement par notre bureau d'Ottawa et nos filiales provinciales. Au cours des dernières années, nous avons également collaboré avec des organismes externes, dont la Société de criminologie du Québec, le ministère des Services à l'enfance et à la jeunesse de l'Ontario et, cette fois, le Congrès mondial. Compte tenu des ressources nécessaires à la tenue d'un congrès majeur sur la justice pénale au Canada, je crois que nous devons continuer dans cette voie en explorant cette approche pour 2024.

Le compte Twitter de l'ACJP et les photos incluses dans ce numéro de l'*Actualités JUSTICE* vous donneront un petit aperçu de ce qui s'est passé au Congrès, mais je vous encourage à consulter les présentations sur notre site Web – www.ccja-acjp.ca.

Je profite encore une fois de l'occasion pour remercier nos partenaires de la Commission des libérations conditionnelles du Canada, du Service correctionnel du Canada, de Sécurité publique Canada, de l'ICPA et bien sûr de la Confédération européenne de la probation. Un merci tout spécial à M. Frank Porporino (Ph. D), qui a quitté son domicile européen pour être notre conférencier principal d'ouverture et à Howard Sapers, le conférencier au banquet et notre gagnant du Prix Willie Gibbs pour l'ensemble des réalisations. Enfin, je dois souligner de nouveau ce discours fort émouvant de Robert Diaz, lauréat du Prix de la réconciliation, et aux exposés émouvants de l'aîné autochtone, Dan Ross.

Outre les photos du Congrès, ce numéro de l'*Actualités JUSTICE* présente une longue Entrevue de l'ACJP avec Anil Anand¹ ainsi qu'une sélection d'articles sur les enjeux complexes auxquels est confronté le système de justice pénale canadien actuel. ■

NOTES

1. Auteur, conférencier et coach en leadership/gestion du changement possède 29 années d'expérience policière au sein du Service de police de Toronto.



**5TH WORLD CONGRESS ON PROBATION AND PAROLE!
A GRAND SUCCESS – THANKS TO YOU!**

**5^E CONGRÈS MONDIAL SUR LA PROBATION ET LA LIBÉRATION CONDITIONNELLE!
UN IMMENSE SUCCÈS - GRÂCE À VOUS !**

Hosted by / Organisé par
CCJA's 38th Biennial Canadian Congress on Criminal Justice
38^e Congrès biennal canadien sur la justice pénale de l'ACJP



In collaboration with / En collaboration avec
The Confederation of European Probation
Correctional Service of Canada - Service correctionnel Canada
International Corrections and Prisons Association
Parole Board of Canada - Commission des libérations conditionnelles du Canada
Public Safety Canada - Sécurité publique Canada
Royal Canadian Mounted Police - Gendarmerie royale du Canada

**Congress Keynotes and many Presentations are available on the CCJA Website!
Visionnez les discours et présentations du congrès sur le site Web de l'ACJP!**

ccja-acjp.ca

The 5th World Congress on Probation and Parole held Sept 28-Oct. 1 in Ottawa (ON), Canada brought together community and criminal justice partners from around the world to share information and unique perspectives on corrections and conditional release. The success of this event was ensured by the collaboration of the Parole Board of Canada, Correctional Service of Canada, Public Safety Canada, the International Corrections and Prisons Association and the Confederation of European Probation.

Le 5^e Congrès mondial sur la probation et la libération conditionnelle, tenu du 28 septembre au 28 octobre en Ottawa (ON), Canada, a réuni des partenaires communautaires et judicaires du monde entier pour échanger de l'information et des points de vue sur le système correctionnel et la mise en liberté sous condition. Le succès de cet événement a été assuré par les collaborations de la Commission des libérations conditionnelles du Canada, du Service correctionnel du Canada, de Sécurité publique Canada, de l'Association internationale des services correctionnels et des prisons et de la Confédération européenne de probation.

Opening Ceremony: 5th World Congress on Probation and Parole / CCJA's 38th Biennial Canadian Congress on Criminal Justice

Cérémonies d'ouverture : 5^e Congrès mondial sur la probation et la libération conditionnelle / 38^e Congrès canadienne de justice pénale de l'ACJP

Indigenous Elder Dan Ross: Indigenous Welcome on the National Day for Truth and Reconciliation

Aîné autochtone Dan Ross : Bienvenue dans le cadre de la Journée nationale de la vérité et de la réconciliation

Unless otherwise specified / Sauf indication contraire,
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OPENING CEREMONY / CÉRÉMONIES D'OUVERTURE



OPENING CEREMONY / CÉRÉMONIES D'OUVERTURE



DAN ROSS

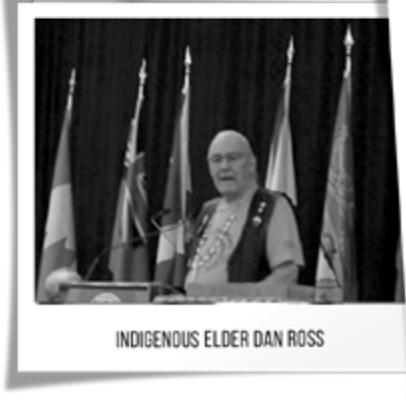
KEYNOTE SPEAKERS / CONFÉRENCIERS D'HONNEUR



JENNIFER QADES
CHAIRPERSON, PAROLE BOARD OF CANADA



FRANK PORPORINO



INDIGENOUS ELDER DAN ROSS



ROBERT S. WRIGHT

Indigenous Justice and
Reconciliation

Can Less Correctional Control
Give Us More Public Safety:
Working to Make Community
Options More Effective.

La réduction de la surveillance
correctionnelle améliorerait-elle
la sécurité publique? Oeuvrer
pour rendre les options de la
Communauté plus efficaces.

Dismantling Systemic Racism

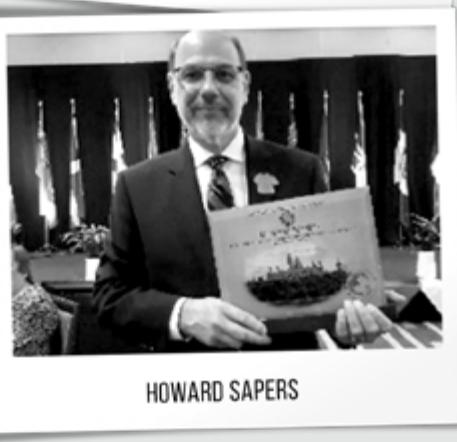
CCJA AWARDS / LES PRIX DE L'ACJP

Roberto Diaz receiving the CCJA RESTORATION AWARD, presented by CCJA Board Director Angela Falk. Read Roberto's story in the online *JUSTICE Report* - 36.1 and 37.1/2.

Roberto Diaz reçoit le PRIX DE LA RÉCONCILIATION au Congrès mondial présenté par Angela Falk, directrice du conseil de l'ACJP. Lire l'histoire de Roberto dans l'*Actualités JUSTICE* en ligne - 36.1 et 37.1/2.



ROBERTO DIAZ



HOWARD SAPERS

Howard Sapers* wins the CCJA 2023 WILLIE GIBBS LIFETIME ACHIEVEMENT AWARD. See the *JUSTICE Report* - 37.4, 38.1, and 38.4 - for a trilogy by Howard Sapers about solitary confinement and the SIUs that replaced them under Bill C-83.

*Former Correctional Investigator of Canada and current Chair of the Structured Intervention Unit Implementation Advisory Panel.

Howard Sapers*, lauréat 2023 du PRIX WILLIE GIBBS POUR L'ENSEMBLE DES RÉALISATIONS. Voir l'*Actualités JUSTICE* en ligne pour une trilogie rédigée par Howard Sapers sur l'isolement cellulaire et les UIS qui les ont remplacés en vertu du projet de loi C-83.

*L'ex-enquêteur correctionnel du Canada et président actuel du Comité consultatif sur la mise en œuvre des unités d'intervention structurée.





CCJA Interview with Anil Anand

NANCY WRIGHT

*Anil Anand, author, speaker, leadership & change management coach, counts 29 years of policing experience with the Toronto Police Service and numerous publications on policing and policing policy including his widely distributed book *Mending Broken Fences Policing; An Alternative Model for Policy Management*. Anil holds a Master of Laws (Osgoode), an MBA (Rothman School, University of Toronto), a Global Executive MBA (St. Gallen, Switzerland), a degree in Physical and Health Education (University of Toronto), and a Black Belt (Japan Shotokan Karate Association). Anil brings a global, innovative and collaborative approach to organization challenges, management, and leadership. In this CCJA Interview, Anil Anand offers insightful, informed replies to a variety of questions on topics related to his research, including sentencing reports for vulnerable groups and the need for policy development supporting an integrative approach for access to services related to trauma, the paradox of poverty and public safety.*

The CCJA welcomes Mr. Anil Anand, a former Canadian police officer and author of *Mending Broken Fences Policing: An Alternative Model for Policy Management*.

“THE NEW SCOOP” (ANAND, 2022)

CONTEXT: In your article titled “Canada’s Correctional System: The New Scoop”, appearing in this *JUSTICE Report* (37.4), you take an extra-national view of Indigenous carceral over-representation and social exclusion, noting similarities between Canada’s history and that of Western nations around the globe. Exemplifying that it requires more than laws and policy to effect concrete change, you recall the Supreme Court ruling of 2012 around the failed implementation by the courts of the Gladue sentencing principles (which apply equally to all who self-identify as Aboriginal regardless of status or band) established in 1999 under 78.1 of the Canadian Criminal Code. Within this framework, please speak to the following questions:

CCJA: In your opinion, do the implementation problems with Gladue signal problems within the Criminal Justice System?

ANIL ANAND: Despite changes to the Criminal Code - case law and judicial directives following the 1999 decision by the Supreme Court of Canada in *Regina vs. Gladue* requiring prosecutors and judges to take into consideration the special circumstances

of Indigenous offenders, alternative sentencing alternatives, and restorative justice - little has changed for Indigenous offenders.

In 2012, thirteen years after *Gladue*, *Regina vs. Ipeelee* reminded the judiciary they were mandated to follow the decision in *Gladue*, but again little changed in the trajectory of First Nations incarcerations.

In 2015-2016, Indigenous People in Canada represented almost one-quarter of the total federal offender population. A state of affairs characterized by Supreme Court Chief Justice Richard Wagner as a serious problem that was “unacceptable”.

In 2018-2019 First Nations adults account for 31% of admissions to provincial/territorial custody and 29% of admissions to federal custody while representing roughly 4.5% of the Canadian adult population. Indigenous adults represented 75% of admissions to custody in Manitoba and Saskatchewan.

In 2021 Canada’s Correctional Investigator, Dr. Ivan Zinger, noted: “In the very near future, Canada will reach a sad milestone where half of all federally sentenced women in custody will be of Indigenous ancestry, despite representing less than 5% of the total population of women in Canada.” He cautioned that “Surpassing the 50% threshold suggests that current efforts to reverse the Indigenization of Canada’s correctional population are not having

the desired effect and that much bolder and swifter reforms are required.”¹

There are major systemic deficiencies within the criminal justice system. This does not mean that the system is racist or corrupt – it is simply unfair and unresponsive to the needs, histories and social realities of many communities. At the same time it has eroded the legitimacy of every stakeholder in the criminal justice system. Stakeholders, indoctrinated and entrenched in systemic and procedural structures, have been simply unable to steer meaningful reforms.

We have failed in our therapeutic intervention approach to social justice, given such large proportions of the populations who continue to be marginalized, lack appropriate housing, resort to food banks, and continue to populate our correctional institutions.

Our so-called therapeutic interventions perpetuate a focus on systemic responses to deal with the fallout of social inequalities downstream after the damages are already done, rather than addressing them upstream before they manifest into long-term and often intergenerational trauma.

Gladue represented a singular point within the history of the Canadian criminal justice system when, at least the courts, recognized or were compelled to recognize this illness. *Regina vs. Ipeelee* was another such singular marker; there have been others – report on Suicide Among First Nations People, Métis and Inuit (2011-2016), report of the Truth and Reconciliation Commission of Canada, report of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

The challenge for Canada and others is that we are entrenched in systems consisting of social services which are fragmented and work as silos. Municipal, provincial and federal services are not coordinated in ways able to work cohesively to provide consistent, long-term services; services within which clients can be provided and passed along a spectrum of services seamlessly without interruption or disruption; services that are responsive and tailored to the needs of specific communities, and to the unique demands and needs of their unique clients. Systems remain entrenched, biased, and unresponsive to the evolving needs and realities of marginalized and special needs communities.

CCJA: Can we expect similar implementation problems to characterize the Impact of the Race and Culture Assessments (ICRA) model created in Nova Scotia and being adopted by the federal government? What considerations do ICRAAs make in terms of sentencing and for which ethnic groups?

ANIL ANAND: Impact of Race and Culture Assessments (IRCAAs) are pre-sentencing reports that help sentencing judges to better understand the effect of poverty, marginalization, racism, and social exclusion on the offender and their life experience. IRCAAs explain how the offender’s lived experiences of racism and discrimination inform the circumstances of the offender, the offence committed, and the offender’s experience with the justice system.

African Nova Scotians and First Nations Peoples have been overrepresented in custody, over policed, getting harsher sentences, and getting treated worse when in custody.

While IRCAAs represent a positive initiative aimed at recognizing the systemic failures of a static and often inflexible system, like previous initiatives much will depend on the education of criminal defence lawyers, crown prosecutors and judges and on oversight and accountability.

The IRCA is a systemic response to an admission of systemic racism; that’s a positive outcome, but what’s also needed is a cultural and attitudinal shift, a societal response.

The criminal justice system tends to be systematically inclined to resort to quick resolutions and expediency in favour of keeping an already heavily burdened system moving. We will have to assess the effectiveness of the IRCA by how it impacts the demographics of the prison population, recidivism, and the types of sentences that follow.

While inclusion of IRCAAs is a positive initiative, it is nonetheless an initiative for addressing proceedings downstream; it does nothing to mitigate or remove the precursors that bring suspects before the courts.

The IRCAAs support reform, principles that bring about the types of reform we know to be essential for a more humane, equitable justice system. It does not however mitigate the precursors of crime – lack of housing, unemployment, mental

health services, racism, drop-out rates, and social exclusion, and lack of attention to the integration of public health and social services.

CCJA: *“By the sentencing stage, almost all those who remain before the courts are from low-income backgrounds”²². Should pre-sentencing reports for low-income Canadians also be mandated? If so, would this be complicated by the fact that “Canada has no official poverty measure”²³?*

ANIL ANAND: As I have noted, programs like the IRCA do little or nothing in most instances to mitigate or remove the precursors that bring offenders before the courts.

Unfortunately, those who populate our prisons are mostly those who are deprived of the resources, means, choices and power necessary to acquire and maintain a basic level of living standards and to facilitate integration and participation in society.

The National Advisory Council on Poverty (NACP) defines poverty as the deprivation of resources and the lack of power required to attain basic living standards and to facilitate social integration and inclusion, thus clearly linking poverty to social exclusion or marginalization.⁴

Domestically, Canada defines poverty as “The condition of a person who is deprived of the resources, means, choices and power necessary to acquire and maintain a basic level of living standards and to facilitate integration and participation in society.”

Canada's Official Poverty Line is calculated using the Market Basket Measure (MBM) based on the cost of a basket of food, clothing, shelter, transportation, and other items for individuals and families representing a modest, basic standard of living, and based on the unique economic and social characteristics of 50 different regions and 19 specific communities across Canada.

According to the 2017 Canadian Income Survey (CIS), the Poverty Reduction Strategy's interim target of reducing poverty by 20 percent by 2020 had been reached a full three years ahead of schedule. According to the report, poverty reduction to 9.5 percent was the lowest poverty rate in Canadian history.

On August 21, 2018, the Government of Canada released Opportunity for All – Canada's First

Poverty Reduction Strategy, which contained long-term commitments to guide current and future government actions and investments to reduce poverty. In this poverty reduction strategy, three main pillars were identified, each containing a set of indicators that would be measured and monitored over time.

Unfortunately, aggregate data misses the granular misfortune felt by significant segments of society especially those living under the poverty line, the marginalized, First Nations and minorities. Too much is celebrated based on the arbitrary and subjective imposition of what is determined as ‘basic needs’ for the MBM, or what is considered as a ‘modest living standard’.

Those who populate our prisons are mostly those who are deprived of the resources, means, choices and power necessary to acquire and maintain a basic level of living standards and to facilitate integration and participation in society.

There are other collateral consequences to these systemic realities. First Nations People living on, and off reserve die by suicide at much higher rates than non-Indigenous people. In some instances the suicide rate for children and youth has been reported to be ten times higher among males and twenty-two times higher among females. In fact, suicide is one of the leading causes of death among children and youth in areas with a high proportion of First Nations people and in Inuit Nunangat.

Courts must take into account aggravating and mitigating factors that contribute to the cases brought before them; as they in fact do – still we have seen decades of over representation of First Nations, Black people, and minorities in our corrections system.

Instituting or mandating presentencing reports for low-income Canadians again only targets problems downstream – too little too late and perhaps amounting to little more than tinkering with the real problem – the increasing disparity between those who are doing well and those left behind is the real issue.

CCJA: *According to the John Howard Society in 2019, “about half the people imprisoned in Canada had been victims of at least one form of [crime through, emphasis added] child abuse – physical abuse, sexual abuse, emotional abuse or neglect.*

This means that many people with childhood trauma are being placed again into the traumatic environment of imprisonment. What possible sense can policy around criminal justice make of this?

ANIL ANAND: As noted, First Nations People living on, and off reserve die by suicide at much higher rates than non-Indigenous people. In some instances the suicide rate for children and youth has been reported to be ten times higher among males and twenty-two times higher among females. In fact, suicide is one of the leading causes of death among children and youth in areas with a high proportion of First Nations People and in Inuit Nunangat.

Within the First Nations context there were 4,300 Indigenous children aged 0 to 4 reported as foster children living in private homes in 2016. Although Indigenous children accounted for 7.7% of all children aged 0 to 4, they accounted for more than one-half (51.2%) of all foster children in this age group.

One-quarter (26.2%) of Inuit, 24.2% of First Nations and 11.3% of Métis lived in dwellings that require major repairs. These rates were highest for Inuit living in Inuit Nunangat (31.5%) and Status First Nations people living on reserve (44.2%).

The proportion of First Nations people who lived in a dwelling that needed major repairs was more than three times higher on reserve than off reserve.

Suicide rates among First Nations people are 24.3 deaths per 100,000 person-years, three times the rate of 8.0 deaths per 100,000 person-years at risk among non-Indigenous people. And the suicide rate for people living on reserve was about twice as high as that among those living off reserve. Suicide rates being the highest in youth and young adults (15 to 24 years) among First Nations males and Inuit male and females.

In 2016/2017, Aboriginal adults accounted for upwards of 28% of admissions to provincial, territorial correctional services and federal correctional services, while representing 4.1% of the Canadian adult population.

Aboriginal youth accounted for 46% of admissions to correctional services in 2016/2017, while representing 8% of the Canadian youth population. Aboriginal youth admissions went from 21% in 2006/2007 to 35% in 2015/2016 and reached 37% in 2016/2017. Manitoba (74%) and Saskatchewan (76%) had the largest Aboriginal admissions to custody.

Substance use disorder affects 76 per cent of the female correctional population and 49.6 per cent of the male correctional population.

And if moral obligation does not suffice for eradicating poverty, there are economic reasons that provide incentive. There are, for instance, lost tax revenues and increased costs to the health and justice system for maintaining people in poverty. It has been calculated that the cost of poverty in Ontario alone in 2019 was between \$27.1 – \$33 billion per year.

These statistics should provide pause for those who find solace in the aggregation of human misfortune into a basket measure of success. These are alarming indicators of the continued perpetuation of intergenerational trauma amongst the most affected populations in Canada. It is an indictment of our present systems and policies.

Policy development needs to be focused on an integrative approach to access to services, not be limited to harm reduction, withdrawal management, and assertive community. It must, importantly, focus treatment - on service gaps including multiple vulnerabilities such as stigma of criminal justice involvement, mental illness, and substance use, which make access to services difficult and lead to discrimination within service systems and recidivism.

Focusing on systems and institutions that respond to individual failures is a distraction from our real failure as a society – the failure of free market economies, of institutions of capitalism, and of human rights that have despite decades of promises, millennial goals and commitments failed to lift the vulnerable out of poverty and social victimization.

CCJA: What type of policy management could eliminate over-representation of the above-mentioned groups, how would this affect policing, and what has been the historical impact of the above factors on Canadian jurisprudence?

ANIL ANAND: As the International Centre for Criminal Law Reform has noted in its report on Poverty and Access to Justice: “Poverty limits people’s access to justice and their ability to resolve conflicts and deal with everyday legal problems. It is a very disempowering and alienating experience. The resulting inability to successfully resolve legal problems is itself contributing to people’s inability to attain or maintain basic living standards. The

justice system instead of empowering poor people and allowing them to fight for their rights is too often a source of frustration, disillusionment, and disempowerment for them, as well as a direct reflection of prevailing social inequality and exclusion.”⁵

While poverty and marginalization are contributing factors to the over representation of those who are from low-income backgrounds, victims of child abuse, physical abuse, sexual abuse, emotional abuse, neglect, and those from First Nations communities experience added barriers within the criminal justice system.

Too often, accused from marginalized communities lack the self-advocacy, support, or oversight that more affluent members of society take for granted.

Access to suitable sureties, being able to meet bail conditions, or being able to afford the time and cost to be away from family members dependent on the accused, particularly in the case where an accused is a single parent or member of a broken family. Such considerations encourage plea deals or admissions of guilt in order to shorten the time spent in custody or having to return repeatedly to mount a full and proper defence.

Repeat offenders are often subject to reverse onus requirements and are even more likely to expedite their encounter with the criminal justice system by copping a plea, even under circumstances where there are sufficient grounds to mount a defence.

The International Centre for Criminal Law Reform recognizes that those who seek legal information or try to improve their knowledge of the law do not always receive meaningful, credible, and trustworthy information about their legal problem or the law that is relevant to the jurisdiction in which they find themselves.⁶

These conditions can also shelter policing from scrutiny and oversight, for instance in cases where

the charges may have been unwarranted or poorly supported by evidence, which would otherwise be inevitable through the course of an adversarially contested criminal justice proceeding. This is something the Race and Culture Assessments (IRCA) will help sentencing judges to better identify and address.

Further, as I argue in *Mending Broken Fences Policing*, there are a multitude of well-intentioned performance measures within systems that can lead to unintended dysfunctional performance. The types of performance that may reward those within a given system, policing, for instance, seeking recognition or advancement justifiability within that “system” but often at the expense of dehumanizing, exclusion of the interests or victimizing the vulnerable — carding is a perfect example.

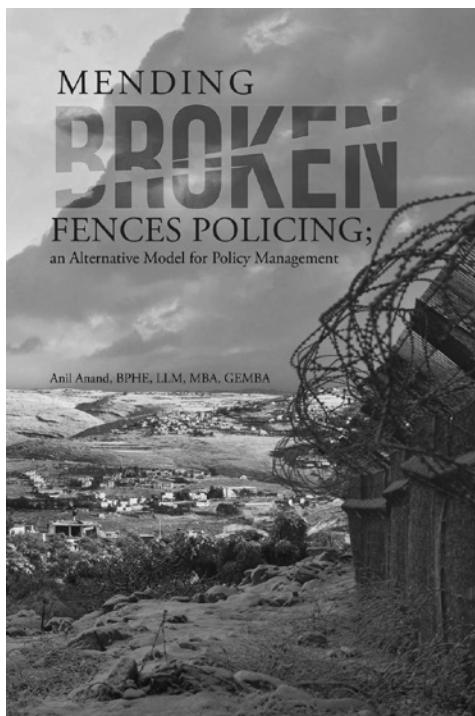
It is these types of policies and performance measures that have led to many injustices and systemic failures leading to the demand for reform from wide quarters we see today— Black Lives Matter and Idle No More amongst these.

MENDING BROKEN FENCES POLICING: AN ALTERNATIVE MODEL FOR POLICY MANAGEMENT (ANAND, 2016)

CONTEXT: Policing should not be a ‘dumping ground’ for society’s failures around (often socially produced) vulnerable citizens.

CCJA: In Mending Broken Fences you point to “Community mediation

programs that deal with neighborhood disputes, school bullying, quarrels between workers and customers, and Elder mediation as examples of disputes that might be resolved through alternative processes” (Kindle, p. 162 of 206). How would this work in rural communities, where currently the dropout rate often reaches 50% and the contributing factors are known: child abuse, neglect and subsequent marginalization often lead to problems at school, including academic failure and/or behavioural issues at primary school. These, among other, factors have long been identified as creating, in some, a perfect storm of criminal behaviour that will escalate through the teen years and/or adulthood and require police intervention.



ANIL ANAND: Policing, despite decades of community oriented policing and stakeholder engagement, and reform based professionalism involving community health, social services, and extra-legal support services remains a catch-all service for responding to too many who continue to fall between the gaps in the system. Those suffering from homelessness, substance abuse, mental health, repeat offenders, or those with a history of intergenerational trauma and neglect.

The International Centre for Criminal Law Reform, for instance, notes that “Individuals with complex and compounding legal issues often face even greater difficulties navigating the justice system and acquiring legal assistance. This can breed feelings of frustration and result in small legal problems evolving into more serious matters that are more likely to result in incarceration.”⁷

The marginalized, or those who have fallen through the social safety net are often otherized as problematic, as less equal, and less visible. “Society often construes welfare recipients, people in contact with the law, and those accessing legal aid as “others”, people whose complex needs and barriers to justice do not warrant sympathy”.⁸

In Canada, there are more than 250,000 adult admissions each year to correctional facilities, about 8,000 of which are to federal custody, and there are 14,000 youth admissions each year.⁹ On an average day, there are about 40,000 people in correctional facilities.¹⁰ Whether adults or youth the impact of a cycle of crime, neglect, and marginalization is rarely limited or restricted to the accused alone. Inter-generational trauma impacts entire families and communities.

There is at best a chasm between the criminal justice system and affected communities today. Generations of mistrust, abuse, and racism has left too many alienated from the criminal justice system, resentful and suspicious of systems of authority particularly policing.

The alternative dispute resolution pedagogy has spanned a whole new generation of processes ranging from circle conferencing, mediation, conciliation, restorative justice and diversion programs involving therapeutic intervention. But for the most part these promising alternative dispute-resolution processes have become adjunct or incorporated within the existing framework

of the prevailing criminal justice system – sometimes forming part of a pre-judicial process in pursuit of early settlement, resolutions protected by non-disclosure agreements, or processes that are so bound within existing legal frameworks and regulations they can hardly be considered alternative.

Real change requires that the criminal justice industrial complex be decentralized and transferred as much as possible to communities. Most important is the returning of justices of the peace back to the concept of community magistrates, representing, understanding, and working with and in the community.

The majority of first contact with the criminal justice system, and for that matter a non-criminal provincial offence, today appear before Justices of the Peace in formal, highly stylized and intimidating surroundings – centralized and away from the communities where the offence occurs. This leaves little differentiation in the common person’s perception between a court of first appearance or a trial court.

Appearing before a Justice, the initial point of entry into the criminal justice system in most cases is where sentencing principles like the Gladue can best be applied, requiring prosecutors and Justices to take into consideration the special circumstances of the accused in relation to alternative sentencing alternatives, and restorative justice – but this must be carried out within and with communities. This applies to inner city neighbourhoods.

This one simple realignment would provide fundamental and transformative opportunities for reform.

Most importantly, we as a society, need to de-politicize crime. Politicization tears existential social issues into either liberal or conservative solutions. Victims and offenders cannot be distinguished by their political affiliation, and nor should our response. We need to look beyond the easy, sexy enforcement strategies, or those that merely tinker with the lives of the marginalized for political appeal. The answer to addiction, homelessness, mental health, and intergenerational neglect and trauma will not be found in the industries of incarceration nor in prescription of safe injection sites.

CCJA: If the fences that need mending refer to the connections between the various community supports required for the social cohesion you say

is necessary for successful community policing, what form would those supports take and how they might be implemented? How would this affect police training?

ANIL ANAND: Canada has undergone its first major challenge of diversification over the past several decades; the welcoming of peoples, cultures, and practices from around the world that has made Canada amongst one of the most diverse and dynamic nations.

Canada like many other societies is, however, at a crossroads where egalitarian values are being challenged by an emergence of increasingly insular nationalism, and so called right-wing ideology.

It would be a mistake for us to confuse and isolate what are often legitimate concerns of those with more nationalistic perspectives of Canada as right wing or somehow extremist.

Canada's openness and diversity can and should form part of a cohesive national pride in what makes us Canadians, together proud of being Canadians first and foremost. That requires greater investment by all levels of government, civil society organizations, and private enterprise towards grappling with what it means to be a Canadian – it's one matter to promote and grant rights and privileges, it's another to promote and expect that there is a common determination and execution of our responsibilities as Canadians.

Ezra Klein, in his international best seller – “Why We’re Polarized”¹¹ or Eric Kaufmann his book “Whiteshift: Population, Immigration, and the Future of White Minorities”¹² note the changing demographics of Western Nations is inevitably dividing citizens into extreme views of what our future should look like and our place in that future.

While it is not the responsibility or the function of policing to create cohesion within and amongst citizens or communities; it is the role of police to promote an understanding of the rules, laws, and norms that promote harmony, public safety, and the maintenance of law and order; and through that contribute to a cohesive and stable society.

The police cannot achieve these aims on their own. Policing is only as effective as the cooperation and assistance it receives from citizens and the community at large.

Policing is challenged today by the unprecedented levels of transmigration and, with them, potentially extreme ideologies whether due to conflicts, refugees, or the legitimate and voluntary movement of citizens as tourists and visitors. This unprecedented level of global mobility means that communities are constantly changing – constantly in need of adjusting to new norms, education and information about laws and regulations, and community standards. Policing in what is an increasingly unpredictable and hostile world, including extremism and terrorism, requires that policing maintains legitimacy with all communities.

This is the new paradox that many societies, including Canadians face – maintaining that essential level of cohesion within an essential and perpetual flux of transient and changing communities.

CCJA: In Mending Broken Fences Policing you support Multiculturalism but note that enclaving, vis-à-vis the institutionalization of groups, may be contributing to the rise of the factors discussed above (p. 160). What explains the experiences of other Western but non-multicultural nations such as Germany, France, the USA or Belgium, to name only a few, where Black and/or Indigenous people also live in enclaves and are grossly overrepresented in prisons?

ANIL ANAND: As I note above, Canada has undergone its first major diversification over the past several decades; the welcoming of peoples, cultures, and practices from around the world has made Canada amongst one of the most diverse and dynamic nations.

Over the past decade immigration averaged 250,000 permanent residents a year; however, the numbers have increased in recent years in direct response to government policy. Today, 23% of the population are immigrants: the highest since Confederation.¹³

According to Statistics Canada in 2014, if current trends continue, half of the Canadian population will be made up of immigrants and their Canadian-born children. Canada's population would reach 47.7 million in 2041, and 25.0 million of them would be immigrants or children of immigrants born in Canada, accounting for 52.4% of the total population.¹⁴

Many European societies saw multiculturalism – the embrace of an inclusive, diverse society – as an answer to their social problems. However, many including British Prime Minister David Cameron and

German Chancellor Angela Merkel have publicly denounced multiculturalism and spoken out against its dangers.¹⁵

Critics of multiculturalism would argue that excessive immigration without integration erodes social cohesion and undermines national identity. Proponents counter that it's not too-much diversity, but racism. Discussions about multiculturalism have now become proxy for other social and political issues: immigration, identity, political disenchantment, and class gap.

Canada like many other societies is, however, at a crossroads where egalitarian values are being challenged by an emergence of increasingly insular, nationalism, and so called right-wing ideology.

It would be a mistake for us to confuse and isolate or dismiss what are often legitimate concerns of every notion of nationalistic perspectives of Canada as right wing or somehow extremist.

Again, Canada's openness and diversity can and should form part of a cohesive national pride in what makes us Canadian, together proud of being Canadians first and foremost. That requires greater investment by all levels of government, civil society organizations, and private enterprise towards grappling with what it means to be a Canadian – it is one matter to promote and grant rights and privileges, it's another to promote and expect that there is a common determination and execution of our responsibilities as Canadians. But these expectations are neither defined nor encouraged.

Naturally, it takes time to form new loyalties, however, the right to citizenship is unambiguous and the Oath of Citizenship precise:

I swear (or affirm) that I will be faithful and bear true allegiance to His Majesty King Charles the Third, King of Canada, His Heirs and Successors; and that I will faithfully observe the laws of Canada, including the Constitution which recognizes and affirms the Aboriginal and treaty rights of First Nations, Inuit and Métis peoples; and fulfil my duties as a Canadian citizen.

How many of us actually recall or remember this oath? And what are these duties that one swears to? And how many Canadians actually understand the special status of First Nations Peoples within our society? It is one matter to have the rights and privileges of being a Canadian citizen, it's another to

understand, practice, and safeguard these rights and execute our responsibilities as Canadians. And to be clear this is not aimed at new immigrants who have had the privilege of taking the oath of citizenship, it is aimed at all Canadians – new Canadians, those who have been here for generations, and First Nations Peoples.

A debate, discussions, and even disagreements about what this notion of citizenship and its attendant responsibilities and expectations mean should not be seen as partisan, but rather encouraged and nurtured in the development and evolution of Canadian values on human rights, democratic institutions, and our commitment to the institutions that guide our obligations for regional and global order.

Neighbourhoods that have unique cultural characteristics but with strong inter-cultural and inter-neighbourhood bonds provide advantages and positive attributes, but enclaves implying insular and exclusive communities create opportunities and circumstances that are more likely to lead to unintentional and deliberate otherization – even fragmentation and conflict.

CCJA: Your book suggests that “war-on-criminals” police values were defined by police leaders to comply with the staunch political and public expectations generated by the “get tough” policies (pp. 73-74) that have characterized the new millennium. Please explain briefly what participatory practices would mean for policing and how police leaders could foster associated values in law enforcement?

ANIL ANAND: There is no arguing that the war on drugs waged by law enforcement was more than an utter failure, it damaged the lives of millions of people who themselves were victims; victims of poverty, of hopelessness, marginalization, and challenges with mental health. Although the “tough on crime” approach to policing characterized by the so called “war on crime” of the 70’s and 80’s has given way to more progressive policing – there is much yet that policing can do.

Policing has become the default 24-7 public service—whether crime related, neighbour dispute, missing person, mental health, or noise complaint. Policing has also been the singular social service placed in the midst of some intractable inter-community disputes, First Nations land claims for

instance, where the police in reality have no other function than to maintain order. The scope and breadth of responsibly downloaded to policing has grown over time to a point that policing is simply far too over stretched in capacity and competence to respond effectively.

Further, oversight and accountability, while necessary and essential, have created a culture of self-preservation wherein policing has become exceedingly risk averse. Legal protections, lawsuits and civil settlements involving nondisclosure agreements have also added to the cost of managing policing. Policing like other public services must vie for their share of funding; and so police services continue to rely on performance measures that reflect a tough-on-crime perspective that justifies funding increases; but are these measures valid?

The primary measure of police efficiency and effectiveness should be crime prevention, not enforcement or apprehension. Yet a quick glance of contemporary measures of police performance reveals an over-reliance on measures of enforcement.

As Doctor Gary Bloch with the Inner City Health Associates at St. Michael's Hospital in Toronto and co-author of *Prescribing Income: A Multi-level Approach to Treating Social Determinants for Health Providers* notes, we are simply not sufficiently focused upstream, but rather simply pulling the same bodies out of the stream again and again and never looking up stream, to stop them from jumping in the first place.¹⁶

Police leaders have struggled and worked to institute participatory practices with social services, courts, prosecutors, and civil institutions but community policing, restorative justice and diversion programs have achieved little—yes they have made some difference, but hardly enough for the time, effort and resources directed at them under the current systems and structures; in other words the return on investment has been a failure. Success is principally limited by the systemic barriers to inter-agency cooperation between public health, social services, police, and courts. As long as collaboration is not coordinated, managed, measured and held accountable by a single coordinating entity, including shared funding, the response will remain fragmented as will the results.

But this requires a reframing of our attitudes. As the International Centre for Criminal Law Reform notes:

“Society often construes welfare recipients, people in contact with the law, and those accessing legal aid as “others”, people whose complex needs and barriers to justice do not warrant sympathy”.¹⁷

Food banks for instance are centres where some of the most vulnerable, and most likely to fall into the “stream,” can be provided with a host of support – public health, legal advice, direction on housing and shelter, even access to education, and mental health services – a single hub where much can be mitigated before the vulnerable become the invisible.

And, again, if moral obligation does not suffice for eradicating poverty, there are economic reasons that provide incentive. There are, for instance, lost tax revenues and increased costs to the health and justice system for maintaining people in poverty. It has been calculated that the cost of poverty in Ontario alone in 2019 was between \$27.1 – \$33 billion per year.¹⁸

STATE OF CANADIAN PRISONS

CCJA: Do you feel that the realities faced by many Canadian prisons (sale of illicit drugs such as heroin - in sufficient quantities as to require needle-exchange programs), violence, codes of conduct, gangs, over-representation, isolation, and poor nutrition, among other) make communities lose faith in the criminal justice system? What is the impact of all this on recidivism?

ANIL ANAND: The fact that our corrections systems, in some instances, knowingly tolerated drug use was unacceptable. The fact that inmates (clients to a correctional institution) were able to access hard drugs and then consume those drugs in ways that lead to other collateral health damage (HIV, hepatitis) is a failure of the corrections system.

Harm reduction programs whether in correctional facilities or the community at large aim to provide supervised use to mitigate the risk of overdose associated with toxic, illegal drugs, by delivering safer pharmaceutical-grade drugs.

According to a study by the University of Alberta in 2020, between 85 and 90 per cent of the people in prison units have substance abuse issues that directly contributed to their incarceration.¹⁹

Harm reduction does provide safer more humane prisons; such programs go a long way to humanise a population that has already been stigmatized and marginalized - no question.

However feeding any addiction, a sign of some deeper mental or medical health need, fails to address the underlying precursors of addiction. In my view promoting safe consumption sites will in hindsight be no more than replacing bricks and mortar prisons with chemical prisons. We are in some ways choosing the expedient solution by keeping those suffering from deeper social and personal trauma sedated by feeding their addictions rather than doing the more difficult thing – mitigating the precursors that lead too many to intractable addiction.

Yes – incapacitation seems to be the preferred solution to crime and addiction; and our sense of incapacitation remains inclined towards restitution and punishment rather than rehabilitation and reintegration.

It is not surprising then that corrections facilities continue to be places of violence, gang affiliations, and dealing in sex, smuggled cigarettes, and drugs. This is a culture that can only and inevitably lead to recidivism, a cycle of crime and violence, and intergenerational trauma.

As the study by University of Alberta notes:

“While officials have long sought to keep illicit drugs out of prison, they remain prevalent. In prison, drug sales are lucrative and provide the financial lifeblood of prison gangs. When drugs are circulating in a unit, they contribute to volatility, violence and the exploitation of vulnerable inmates. This in-prison drug situation has become much more disturbing in recent years with the emergence of stronger and more lethal street drugs like fentanyl. As such opioids are illegal, prisoners who use them do so in a clandestine fashion, something that increases the risks of infection, disease and inadvertent overdoses. We have interviewed prisoners who have overdosed multiple times in a single week while incarcerated, and in some institutions, correctional officers describe being overwhelmed by constant emergency calls, where they work to resuscitate overdosing prisoners on the edge of death.”²⁰

The fact is that there are alternative models that work better, more humane, more effective, and more efficient models. We do in fact have access to tried and proven best practices that offer better alternatives to our practices.

Many societies around the world are exploring new ways to respond to the incapacitation of criminals. Thailand and the Netherlands have closed many of their high security prisons opting for more therapeutic systems of intervention.

The longest sentence in Norway is 21 years of imprisonment. Release after two-thirds of one's sentence is common. Of all releases from prison during 2018, about 20% of the inmates were released after 30 days or less and about 85% were released within 1 year. Women constitute a minority in Norwegian prisons, with an annual proportion of about 6%.

The judgement on the efficacy of such experiments remains due – however, it is clear that mass incapacitation without meaningful intervention towards the reintegration of prisoners is doomed to failure.

DEFUND THE POLICE MOVEMENT

CCJA: As you were writing *Mending Broken Fences Policing: an Alternative Model for Policy Management* prior to its 2016 publication, could you even have imagined that a defund the police movement would take hold just a handful of years down the road?

ANIL ANAND: Widespread public demonstrations for systemic change are not spontaneous occurrences; on the contrary mobilization for demand to systems occurs over time and over repeated failures of systemic responses. And it is also usually the case that for those who operate within systems, such failures are self-evident long before external forces demand change.

It was clear long before critics of the “war on drugs”, “zero tolerance policing”, “broken windows policing” or “carding” that such policies and systemic group think were ineffective inefficient, and simply wrong.

Unfortunately, systems are designed for self-preservation. Promotions, cultural acceptance, personnel evaluations, and other reward and corrective strategies are designed to reward compliance and group think.

Those who maintain the “party line” and adhere to systemic group think are rewarded while those who challenge are sidelined, ridiculed, and excluded.

The fact remains, perceptions become clearer, positions corrected, and policies redefined when viewed in hindsight.

One of the biggest challenges for policing is managing the paradoxes embedded in its institutional requirements. Public accountability versus confidentiality; separation of policing from politics and dependence on political systems for funding; promoting community-based policing strategies while relying on intelligence led-initiatives; and, demanding compliance with exhaustive procedural regulations and laws while expecting discretionary tolerance, legislatively prohibited from unionization yet being supported by extremely powerful and influential associations.

In short - no; it is not surprising that policing is facing, in some instances, an existential threat to police legitimacy, a legitimate demand for a realignment of law-enforcement, public order, crime prevention, and public security with the public's expectations.

For those who are familiar with Sir Robert Peel's principles, they remain valid – what is no longer valid, in many instances, is how and who the police view as that community.

CCJA: Thank you very much Anil Anand for having taken the time out of your busy schedule for this CCJA Interview. ■

NOTES

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RÉSUMÉ

ENTREVUE DE L'ACJP avec Anil Anand

NANCY WRIGHT

Cet auteur, conférencier et coach en leadership/gestion du changement possède 29 années d'expérience policière au sein du Service de police de Toronto. Il est l'auteur de plusieurs publications sur la police et les politiques, y compris son livre *Mending Broken Fences Policing : An Alternative Model for Policy Management*. Anil Anand détient une maîtrise en droit (Osgoode), un MBA (Rothman School, University of Toronto), un Global Executive MBA (Saint-Gall, en Suisse), un diplôme en éducation physique / santé (University of Toronto) et une ceinture noire (Japan Shotokan Karate Association). Anil apporte une approche globale et novatrice aux défis en matière d'organisation, de gestion et de leadership. Dans cette entrevue de l'ACJP, Anil Anand offre des réponses éclairantes à une variété de questions sur des sujets comme la réforme des procédures de détermination de la peine et la nécessité de politiques favorisant l'intégration des services de traumatologie, le paradoxe de la pauvreté et la sécurité publique.

Solitary Confinement in Canada and the Promise of Structured Intervention Units in Canadian Penitentiaries¹ (Part 1)

HOWARD SAPERS

Chair, Structured Intervention Unit Implementation Advisory Panel

Chair of the Structured Intervention Units Implementation Advisory Panel (SIU IAP) and former Correctional Investigator of Canada Howard Sapers takes an historical look at the practice of segregation (solitary confinement) in Canadian penitentiaries. Considered in the 19th century as penitence 'programming' through self-reflection, the practice of isolation was foundational to the ideology and architecture of early North American prisons and became embedded in Canada's early correctional culture. Its use was deemed a factor in the Kingston Pen riot (1971), which led to the establishment of the Office of the Correctional Investigator (1972). Despite several major studies calling for reform, Canada's historical attempts to implement recommended changes have been doomed in part by a powerful correctional culture primarily committed to security and control. Ultimately, the practice of segregation was abolished in law in November 2019.

See Justice Report 38.1 (2023) for Part 2, which will focus on the challenges of implementing the legislated replacement of segregation – the controversial new system of Structured Intervention Units. Part 3 of this trilogy, scheduled to appear in 38.4, will discuss responses to recommendations made in the SUI IAP Annual Report.

There was much fanfare when the Canadian government announced the end of the use of administrative and disciplinary segregation in federal prisons, its hand arguably forced by court findings that the practice was contrary to provisions of the Canadian Charter of Rights and Freedoms. The legislation change came with Bill C-83, *An Act to amend the Corrections and Conditional Release Act and another Act* (2019), which mandated Correctional Service of Canada to replace segregation with a new system of Structured Intervention Units (SIU). The lead-up to implementation of the new law was fraught with criticism from various criminal justice stakeholders who questioned CSC's ability to 'police' its own use of isolating confinement, given evidence of a culture of inappropriate use of segregation in corrections, particularly when it came to Indigenous prisoners and those facing mental health concerns.

To appreciate the difficulties inherent in moving our correctional system away from the use of segregation, it is helpful to consider the 19th century roots of the modern penitentiary system in North America and to understand that the practice of solitary confinement was foundational to the ideology and architecture of early North American prisons. In terms of architecture, those early institutions, such as Canada's Kingston Penitentiary (1835-2018), were characterized by tiny three-walled cells designed to isolate prisoners from each other while allowing a Benthamian degree of panoptic surveillance with one barred wall optimally positioned for easy surveillance by centrally positioned guards. This degree of separation of guards from the cells was useful to minimize human contact and also to help prevent abuse-of-power relationships from forming.

As reflected in the term ‘penitentiary’, many justice stakeholders of the 19th century – including the Quakers and John Howard – saw this kind of systemic isolation as ‘programming’ that would lead prisoners to penitence via self-reflection. Its use was considered humane compared to the punishing conditions of confinement and abusive use of corporal punishment in the over-populated European prisons. Over time, the belief that keeping prisoners away from each other would prevent hardened criminals from contaminating others through social interaction became the rationale. Critics espousing scientific hypotheses about the dehumanizing impacts of extreme isolation were largely ignored.

In Canada, *solitary confinement* became known as dissociation² and prisoners were separated from the general population for one of two reasons: punitive dissociation involved disciplinary segregation while non-punitive dissociation was for protective custody and the maintenance of good order. As rehabilitation programming became the accepted norm, with only the most incorrigible of prisoners deemed to require isolation, segregation use continued to shape and be shaped by a correctional practice tilted toward security. Segregation and violence were factors in the Kingston Pen riots of 1971, which raised public awareness about inhumane prison conditions and led in 1973 to the establishment of the Office of the Correctional Investigator to act as an Ombudsman for federally incarcerated prisoners and to provide independent oversight of federal corrections. With Canada’s abolition of corporal punishment in 1972, segregation would emerge as “the major formal mechanism of control.”³

In response to a report by the Correctional Investigator, a Study Group (1975) tasked by the Solicitor General of Canada looked into concerns with the dissociation model (e.g., segregation), including the Canadian Penitentiary Service’s (CPS)⁴ failure to maintain a record of its uses and to document placement reason, daily routine, length of stay and the defined release date. In spite of new categorizations of segregation (i.e., disciplinary and administrative), dissociated prisoners in both categories were found to be receiving the same treatment, placed in similar cells (typically on the same range) and often ignored for extended periods of time. These practices reflected a belief that given the overcrowding and physical layout of existing institutions, CPS had few alternatives to the increasing use of isolating forms of custody.

The Study Group acknowledged that factors such as prison age and architecture could exacerbate the negative impacts of social exclusion and deprivation, including physical, intellectual, and emotional manifestations. These could include stress, sleeplessness, illness and self-injury. Calling for more research into the effects of isolation, the Study Group found the Canadian Penitentiary Service lax in its attention to existing law, regulations, and policy on the one hand, and a need for more research into the effects of solitary and improved staff training on the other.

In the wake of the Study Group’s work, an internal review board chaired by institutional wardens responsible for prisoner re-integration and monitoring was created to oversee administrative segregation. Recommendations endorsed in 1977 by a Parliamentary Sub-committee called for a review of the Internal Segregation Review Board model within two years. In 1979, the newly (re) named Correctional Service Canada (CSC) failed to conduct the recommended internal review (Jackson, 2006).

In 1983, Michael Jackson, in his capacity as a University of British Columbia Law Professor, reviewed the practice of administrative segregation at Kent Institution in Agassiz (BC) paying particular attention to the newly formed Segregation Review Panel’s optic. In his subsequent book, *Prisoners of Isolation: Solitary Confinement in Canada*, Jackson called for independent adjudication of cases supported by a Model Segregation Code, to clearly define limitations on stays in segregation and protect prisoner rights and freedoms. Recalling that solitary confinement had initially come about as a reaction against the practice of torture and abuse of state power (p.6), Jackson’s critiques (1983) illustrated the need for careful oversight and management of any form of isolated custody. Even so, neither independent adjudication of administrative segregation nor limits on confinement found its way into the *Corrections and Conditional Release Act* (CCRA) in 1992.

Only the category of disciplinary (punitive) segregation offered procedural protections, such as a disciplinary hearing, for the prisoner (s44, CCRA) and had a 30-day cap on duration of stay (or 45 days if for more than one offence). Administrative segregation could be indefinite, including up to the day of release. This, arguably, contributed to the subsequent abusive use of administrative segregation, which 30 years later in 2007 would be a factor in the death of 19-year-old

Ashley Smith who had spent nearly 11.5 months of continuous segregation while being transferred back and forth across the country.

In 1996, Justice Louise Arbour condemned CSC's use of administrative segregation as *de facto* disciplinary punishment in her shocking 1996 report on the systemic abuse and mistreatment of women incarcerated in Kingston Ontario's Prison for Women (PW4). She criticized segregation in P4W for its lack of procedural girth and indefinite nature, and found evidence supporting the need for "*judicial guidance and control*" (p. 198) of CSC's operations in order to comply with the law. Arbour considered the current use of segregation was "*a form of punishment that courts would be loathe to impose, so destructive are its consequences*" (p. 141-143).

The Arbour Report recommended ensuring compliance with the law around the use of administrative segregation including mandatory segregation reviews and an end to its long-term use. As well, Arbour recommended limiting segregation to twice per year and for no more than 30 days each time. If alternatives involving interactions with the general prison population, such as institutional transfer, mental-health placement or "*forms of intensive supervision*" were not possible, court direction would be required. For continued segregation over five days, Justice Arbour recommended judicial supervision or other form of independent adjudication. The Arbour Report concluded that the conditions at P4W, including its use of administrative segregation, represented "*a profound failure of the custodial mandate of the Correctional Service*".

In response, CSC established a Task Force on Administrative Segregation (1996-1997) that included both internal and external members. The initial findings confirmed Justice Arbour's conclusion, that "*CSC has a culture that does not respect the Rule of Law*" (Jackson, 2006, p. 168). The Task Force and the Working Group on Human Rights (1997) both recommended an "enhanced" internal model of segregation review including independent adjudication of segregation cases to serve as "*a litmus test of the Service's commitment to changing its corporate culture to one which not only professes but demonstrates its respect for the Rule of Law*" (Jackson & Sloan, 1998). These twin recommendations failed to move the CSC Commissioner away from CSC's long-standing position of rejecting independent adjudication.

Other reviews of CSC practices include a CCRA 5-year review (2000) calling for an independent decision-maker for administrative segregation, which led to CSC's second major attempt at an enhanced segregation review process (2001-2002), this time with an outside member on the review board. An external evaluation of the pilot in 2003 found enhanced perceptions of fairness in the process but few actual differences in segregation-review outcomes with an interesting rise in cases of "*voluntary*" segregation. The pilot process was subsequently put on hold.

In 2004, CSC rejected the Canadian Human Commission's recommendation for independent adjudication of administrative segregation at the 5 regional women's prisons. Blaming the existing legal framework for preventing such a change, CSC offered to instead once again "enhance" existing practices. CSC (2005) claimed to share "... *the concern of long stays and possible overuse*" but blamed it on "operational realities which must be addressed first, such as: outdated infrastructure, lack of alternatives, transfer problems, long-term cases management, as well as prisoners refusing to leave segregation". This response was seen as an attempt to defend the status quo and maintain tight control on the use of segregation. Instead of addressing these "operational realities", they had been continually cited as the reason for a startling lack of change over 30 years.

In 2015, Queen's University Law Professor Lisa Kerr (2015A, 2015B) wrote about the case of Bobby Lee Worm. An Indigenous woman, Worm had been held four years in isolated confinement under a segregation regimen uniquely for women called the "Management Protocol". The Worm case constitutes the first comprehensive Charter-based challenge to segregation laws in Canada. The "Management Protocol" was thought to be unlawful, as it did not comply with either the CCRA standards on administrative segregation or the *Charter*. When Bobby Lee Worm filed her case in March 2011, CSC immediately promised to revise the policy, but instead cancelled the Protocol and ended the litigation with a settlement to Ms. Worm.

In 2019, appeal courts in both British Columbia and Ontario found that CSC's use of administrative segregation violated the *Charter*. The B.C. Court of Appeal unanimously ruled that prolonged, indefinite segregation deprives prisoners of life, liberty and security of the person in a way that is

grossly disproportionate to the objectives of the law (s7), and the Ontario Court of Appeal, reflecting the Mandela Rules, found that placement in segregation for more than 15 consecutive days amounted to cruel and unusual punishment (s12).⁵

In response to the B.C. and Ontario courts, the federal government passed Bill C-83, *An Act to amend the Corrections and Conditional Release Act and another Act* in 2019, effectively abolishing the use of disciplinary and administrative segregation in Canadian penitentiaries. Bill C-83 mandated the replacement of the segregation model with a system of Structured Intervention Units (SIUs). Although certainly considered a step in the right direction, the Government of Canada's claim that Bill C-83 would "transform federal corrections" was questioned by many justice stakeholders. Despite good intent, the Bill lacked key definitions (e.g., "meaningful human contact"), enforceable oversight, categorical restrictions on placement of vulnerable (e.g., mentally ill) prisoners, and "hard limits" on length of SIU stay.

Aside from the provision of independent external review of SIU placement and personalized interventions and programs, CSC's Structured Intervention Units model was supposed to deliver on Bill C-83's promises of offering a minimum of four hours out-of-cell time, with two hours involving "meaningful human contact". The goal of the SIUs was to bring Canadian federal corrections use of isolating conditions of confinement into harmony with the *Canadian Charter of Rights and Freedoms*. In essence, the provisions in Bill C-83 called for few SIU stays of short duration, and a guarantee of offers of time out of cell including for meaningful human interaction, and an end to indefinite isolating confinement. These were the key justifications for the government's announcement that the unconstitutional use of segregation had ended.

In theory, the Structured Intervention Units are designed to ensure that prisoner treatment does not violate the *Canadian Charter of Rights and Freedoms* and is consistent with international soft law, such as the provisions of the Mandela Rules. SIUs have proven challenging to put into practice and the CSC has attracted broad criticism during the early days of the new units.

The SIU IAP has considered the first 18 months of SIU operations and carefully reviewed administrative data supplied by the CSC. Findings

reveal the initial operation of the new units has fallen short of expectations of the legislative framework. These findings will be discussed in Part 2 of this article, coming up in 38.1 (2023) of the *JUSTICE Report*. ■

NOTES

1. This article draws heavily on the 2021-22 Annual Report of the Structured Intervention Unit Implementation Advisory Panel (SIU IAP) that monitors, assesses and reports on issues related to the ongoing implementation.
2. Various terms are currently in use (e.g., "restrictive housing", segregation, administrative confinement, extended solitary confinement).
3. (Cloward, 1960, p.82: Social Control in the Prison; see Report of the Study Group on Dissociation, 1975).
4. The Canadian Penitentiary Service is the predecessor to Correctional Service Canada.
5. Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, 1982 (UK), 1982, c 11.

RÉSUMÉ

Solitary Confinement in Canada and the Promise of Structured Intervention Units in Canadian Penitentiaries¹ (Part 1)

HOWARD SAPERS

Président du comité consultatif sur la mise en œuvre des unités d'intervention structurée

Président du comité consultatif sur la mise en œuvre des unités d'intervention structurée (UIS CCM) et ancienne enquêteur correctionnel du Canada, Howard Sapers jette un regard historique sur la pratique de l'isolement dans les pénitenciers canadiens. Considérée au XIXe siècle comme un 'programme correctionnel' conduisant à la pénitence par l'autoréflexion, la pratique de l'isolement constituait la base de l'idéologie et de l'architecture des premières prisons nord-américaines et faisait partie intégrante de la première culture correctionnelle du Canada. Son utilisation a été considérée comme un facteur dans l'émeute du pénitencier de Kingston (1971), ce qui a mené à la création du Bureau de l'enquêteur correctionnel (1972). Malgré plusieurs études demandant la réforme - surtout liés aux prisonniers autochtones et ceux entraînant des troubles mentaux - les tentatives historiques du Canada de mettre en œuvre les changements recommandés ont été vouées à l'échec, en partie à cause d'une puissante culture correctionnelle axée principalement sur la sécurité et le contrôle. Enfin, cette pratique a été abolie par la loi en novembre 2019. Voir l'*Actualités JUSTICE Report* (#38.1) en 2023 pour la partie 2, qui abordera les défis liés à la mise en œuvre du remplacement légal de la ségrégation. Puis, en 38.4, vous retrouverez la 3ème et dernière partie de cette trilogie d'articles discutera les réponses aux recommandations provenant du rapport du Comité.

1. This article draws heavily on the 2021-22 Annual Report of the Structured Intervention Unit Implementation Advisory Panel (SIU IAP) that monitors, assesses and reports on issues related to the ongoing implementation.

TERRY FITZSIMMONS AND THE QUEST TO END
SOLITARY CONFINEMENT & OTHER TRUE CASES

PINE BOX PAROLE

BY JOHN L. HILL

FOREWORD BY RAPHAEL ROWE

AFTERWORD BY PROF. KERAMET REITER

BOOK 9 IN THE TRUE CASES SERIES

"Terry Fitzsimmons and the Quest for an End to Solitary Confinement"
is the basis for a TV series currently in development.

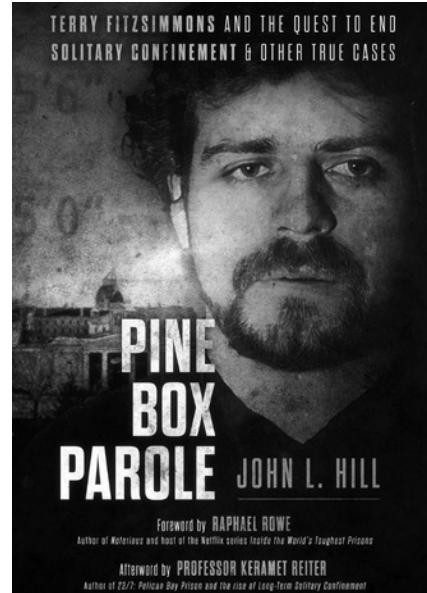
Pine Box Parole begins with convicted murderer Terry Fitzsimmons hanging himself in Kingston Penitentiary. Subsequent chapters delve into the killer's background and describe the senseless killings upon which he embarks after spending years in solitary confinement. Prison lawyer John L Hill, attempts to defend Fitzsimmons by putting the blame on the prison system for creating a monster. Part II of the book contains searing stories of five of Hill's imprisoned clients, including the, 'natural born killer' Clifford Olson, and Inderjit Singh Reyat, the only person to be convicted of the bombing Air India 182.

The foreword is by Raphael Rowe, whose career as an investigative journalist and television host was born as a result of spending 12 years in prison for crimes he did not commit. The afterword is by Keramet Reiter a professor in the Department of Criminology, Law and Society and at the School of Law at the University of California, Irvine.

ABOUT AUTHOR JOHN L. HILL



John is a lawyer who defends criminals and penitentiary inmates. He is a triple graduate of Queen's University, holds an Honours B.A. and M.A. in political science, a J.D. from the School of Law, and a LLM from Osgoode Hall. He lectures internationally on prison law topics at conferences of the International Assoc. of Psychiatry and the Law and writes columns for *The Lawyer's Daily*.



"The quest described in this story is based on a desire to end the imposition of solitary confinement as a means of punishment. It is a story of one man's efforts to bring the groundbreaking research of psychiatrists like Dr. Stuart Grassian to the attention of the courts."

— Raphael Rowe, author of *Notorious* and host of *Inside the World's Toughest Prisons*

"The story is one that desperately needs confronting as Canada and the United States grapple with the collateral consequences of overusing solitary confinement at the deepest end of the criminal justice system."

— Prof. Keramet Reiter, from the Afterword

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A Fading Faith in Policing

GREGORY LEWIS BISHOP

Greg Bishop served as a regular member of the RCMP from 1990 until his retirement in 2015. He worked in a variety of capacities, from front-line general duty patrol to Sex Crimes Investigations, Serious Crime Investigations and specialized teams focused on particular criminal behaviour. For several years he led the Eastern Integrated Border Enforcement Team responsible for coordinating border security between various United States' and Canadian agencies, from the west shore of Lake Memphremagog on the Quebec/Vermont border to the borders of New Brunswick, Quebec and Maine. Greg Bishop served across Canada, most notably as an innovator and instructor in the field of Forensic Interviewing. His interviewing skills led him to the United States of America, Australia, Rwanda and the United Kingdom. Greg's interviews of victims, witnesses and suspects contributed to many investigational successes including proving people wrongly accused of crimes they did not commit. Working now as a self-publisher, writer and song writer, Greg is retired in Quebec's Eastern Townships.

The need for top-down, multifactorial change to offset social impacts of trends that are in some ways external to policing is evidenced by the prevalence of poverty, mental health issues, substance misuse, dropping-out, in-school bullying, childhood neglect/abuse, and discrimination. Participatory approaches related to policing/corrections are warranted but will require advanced communication for unprecedented integration with other community supports. A needed shift in how government influences policing will require a more community-based framework for setting priorities, establishing approaches and determining funding. As such change comes into view, so will a strengthening of faith in our peace officers and the organizations governing them.

What is faith but a belief in the validity of something? Faith requires acceptance and trust. We tend to look back at other times with a projected sense of "an age of innocence" where things were better than today. The truth is, there has been no age of innocence and in many ways things are better today than they once were. I believe that problems should always be approached with a sense of optimism, a sense of solution and faith in a shared effort to not only improve upon what is already good but also to find the remedies for positive change.

The term "policing" in and of itself detracts from how we in Canada recognize the authority of those sworn to protect and serve the public largely but not solely by and applying aspects of Federal, Provincial, Territorial and Municipal laws. The statutes that provide authority to individuals for the day-to-day application and enforcement of our laws, for the most part, use the term "Peace Officer" and not "Police Officer". If we start from a premise that the foremost responsibility of those who serve as Peace Officers is keeping the peace, the cornerstone upon which a foundation of trust can be built will

come into view. Communication is fundamental to resolution, understanding and progress.

Policing is an extension of government authority through laws and regulation. Although senior politicians and government officials will steadfastly claim that government neither interferes with how police services apply the law nor attempts to influence operational decision-making, I believe there is ample evidence to suggest otherwise. There was a time when the Commissioner of the RCMP was selected by the Solicitor General independent of Parliament. The last several Commissioners have been directly appointed by the Prime Minister and in some cases personally notified of their selection by our country's top elected leader. It is difficult to believe that there is never a risky political element here or that those selected, in spite of proven personal track records of integrity, are immune to becoming beholden to political influence through expectations. Independence with oversight and public accountability is required from the top down. The allocation of policing budgets is often prone to political aspiration and in some cases

programs are created that are ineffective or not in need whereas existing needs go underfunded or outright cut.

Excessive reporting follows not necessarily with a focus on determining effectiveness but rather as a means of program and political-promise justifications. With inadequate human resources always already a challenge for policing, a reality that often goes unaddressed in the reporting, new positions and sometimes whole departments are created to implement and justify the allocation and monitoring of these program budgets. In such circumstances, the policing organization operates at the mercy of government vision and public expectations but sometimes results in a loss of the front-line services that every community needs. And this is the crux of the issue. What does the community need? Who is the community that is in need? The notion of community itself needs re-definition, in both the rural and urban settings. How do the needs and perhaps not always the expectations of the community be fulfilled? Who decides what expectations are relevant and possible for a given community and, perhaps more importantly, how are the two reconciled?

Sometimes the solution or at least the core of the solution is simpler than what we'd expect. We must seek to understand before seeking to be understood. We must pursue bilateral, open, honest and transparent communication at all levels. We need to not only project the desired values and morays, but we must live them.

I often look back at my own service in the context of policing today. Many times over I have been grateful to no longer be serving given today's realities. I see improvements in many areas, but I also believe that the proverbial baby sometimes gets thrown out with the bath water in the process. For example, numerous police services have altered their uniforms resulting in a change of appearance away from what was designed to identify a peace officer toward a more militaristic figure. There are tactical realities to consider as well as comfort and resiliency in clothing, but all these can be achieved without detracting from an image of peaceful approach. Aside from non-verbal cues, how a peace officer appears will often set the tone for essential communication upon their arrival. This may shift a community member's response from calm to one of trepidation or even aggression in spite of the well-intended approach

of the peace officer. Communication between the two is already influenced and perhaps negatively impacted before any verbal conversation can begin. I believe this perspective on the change of uniform serves as a metaphor for other aspects of policing. Communication is a multi-directional street. It begins with intent but projects through garb, actions, words and deeds.

Protests have demonstrated an ever increasing tone of mistrust in government agencies. Ironically, in part, such mistrust comes from an ever-growing awareness made possible by more transparent approaches within certain arms of government including the various police services. There remains far more to be done, but much of what is exposed in terms of failures and wrongdoings would not likely have come to the surface in the past. One could say there were few mechanisms for public access to information, and within the ranks there was a lack of will to expose the truth. As the truth comes to light and what is wrong is revealed, it is only natural for the public to develop an overtly skeptical perspective. We must, however, strive for healthy skepticism and realize that all is not lost and that de-funding police services is not a solution.

Much change in the social fabric is required to remedy the problems we are facing. This will take time and in the meantime public safety needs to be maintained and not reduced. In today's world and perhaps for longer than most would care to admit, social impacts of trends that are in some ways external to policing, such as prevalence of poverty, mental health issues, addiction, dropping-out, in-school bullying, childhood neglect/abuse, and discrimination, have a major impact on the criminal justice system and front-line policing. Participatory approaches related to policing/corrections are warranted but will require unprecedented integration with other community supports, and these latter must be improved and made truly accessible in the communities that most need them.

The starting point for effective and positive change must be at the top. Leading by example is required. Mechanisms to ensure the compliance and accountability for which the public is calling must somehow be integrated—not just in policing, but in all areas where change is to be undertaken. A shift in how government influences policing would require a more community-based framework for setting priorities, establishing approaches and

determining funding. This will require long-term commitments that far exceed the tenure of elected and appointed bodies. As such change comes into view, so will the strengthening of faith in our peace officers and the organizations that govern them. ■

RÉSUMÉ

A Fading Faith in Policing

GREGORY LEWIS BISHOP

La nécessité d'un changement, sous la forme d'un processus top-down et multifactoriel, se reflète dans la prévalence de la pauvreté, problèmes de santé mentale, toxicomanie, décrochage scolaire, l'intimidation, négligence/violence envers les enfants et la discrimination en général. Les approches participatives en matière de maintien de l'ordre sont justifiées, mais nécessiteront une communication avancée pour une intégration sans précédent aux soutiens communautaires. Pour modifier la façon dont le gouvernement influence les services policiers, il faudra un cadre communautaire pour établir les priorités, les approches et les besoins de financement. Lorsque ces changements seront apportés, la confiance envers nos agents de la paix et les institutions qui les régissent s'accroîtra.

Self-Compassion and Mindfulness in Policing

BRANDI CHRISMAS

M.A. Student, Peace and Conflict Studies Program, University of Manitoba

Policing is not for the faint of heart and officers are well trained to take risks, but officers in training would benefit from content related to techniques of mindfulness and self-compassion. Occupational stressors in policing are divided into organizational stressors (i.e., things that can be changed) and operational stressors (i.e., things that are a part of the job). Brandi Chrismas coins a term, supra-operational stressors, to denote what happens when organizational stressors, such as the case of no backup in rural areas, go systemic (See Ricciardelli, 2018). Calling for more research into occupational stressors and the creation of training related to mindfulness and self-compassion, Brandi Chrismas concludes that supra-operational factors must also be resolved.

INTRODUCTION

The concepts of mindfulness and self-compassion go largely unexplored in relation to law enforcement but are more important than we know. The concept of self-compassion is complex, as it encompasses recognizing and understanding one's own suffering and being able to recognize it as a part of the human experience (Neff, 2003). Jon Kabat Zinn defines mindfulness as "the awareness that emerges through paying attention on purpose, in the present moment, and non-judgmentally to the unfolding of experience moment by moment" (Kabat Zinn, 1990). The application of mindfulness and self-compassion is relevant to policing culture within a context of occupational stressors (i.e., organizational and operational).

For police officers, stepping up and confronting risk to ensure public safety is part of the job (i.e., operational stressors), but do we know how to stand up for ourselves when we are at risk? Mindfulness may be the key to comprehensive transformation in this regard (Boyce, 2020). Organizational stressors include the stigma of seeking help, fierce self-compassion, compassion for others and, particularly at the rural level, persistent shortages of human and material resources.

Boyce (2020) highlights the importance of learning how operational stressors and trauma can affect the "human beings behind the badge", which I believe

is a concept often left out of the narrative. Boyce further explains how, at the organizational level, violence used by police may be accepted as there is a "group loyalty" between officers and an overall feeling of protecting each other in the policing culture. This is where mindfulness and compassion could be used to reduce needless or unessential violence as officers become more self-aware and identify mental health needs; however, a culture shift is needed for this.

Fleischmann et al. (2021) explore the challenges of policing "in a fast-paced, ever changing, stressful environment" (p. 1) within a framework of both operational and organizational stressors (together considered occupational stressors). Ricciardelli (Police Quarterly, 2018), however, has called definitions of these terms into question in relation to individual officer understandings of risk by suggesting that organizational stressors in rural communities, such as no back-up for emergency calls, may be relevant to current discussions related to use of force. According to Ricciardelli, such organizational stressors are so entrenched in certain rural jurisdictions, they have morphed into (what I here) coin as *supra-operational* stressors that may be taking officers well beyond a reasonable call of duty, even for policing.

It is important to note the terminology in use. Occupational stressors denotes both organizational stressors and operational stressors, but their meanings are very similar. Ricciardelli (2018) clarifies by describing risk as either “either preventable (i.e., organizational) or unavoidable (i.e. operational)”.

Useful analogies can be found by looking at other fields, such as nursing during COVID, for example—where an insufficient supply of nurses and equipment created an over-amped work environment complicated by double overtime due to staff shortages that go well beyond what nursing training and the call of duty prepares for. This 'organizational reality' is similar for police officers in certain roles or in rural jurisdictions and has been going on for decades.

OCCUPATIONAL STRESSORS IN POLICING

As a junior Constable in the Winnipeg Police Service (WPS), I am new to a lot of situations and have yet to become desensitized or accustomed to the terrible and difficult situations which many of my colleagues in policing and I are exposed to daily. The creation and evolution of policing over the past century has been based, in part, on the principle that society pays professionals to deal with the violence, pain and suffering that exists, so that the average citizen doesn't have to (Chrismas, 2013).

I remember responding to one of my first high priority gun calls—driving fast with the lights and sirens on in the police cruiser car and all that was going through my head was, 'What will we be met with when we get to the incident location?' I distinctly remember the feelings of nervousness and adrenaline. It is the unknown that is stressful in police work. In fact, this aspect is perhaps the most difficult for people outside the profession to understand. We, however, are trained to react accordingly, no matter what happens.

Policing is not for the faint of heart

Occupational stressors of policing can include the overwhelming amount of responsibility and accountability to the public and justice system, and the personal and professional work environment. Policing often involves helping people who don't want to be helped. For example, while working on this article recently, I responded to a call where a teenage girl had overdosed on methamphetamines. I administered three doses of Narcan, and provided CPR, effectively saving her life. Upon regaining consciousness, she immediately began to berate me,

abusing me verbally. These stressors may happen at any workplace, but I believe police carry more of a burden because no work-place regulations can manage our 'clientele's' behaviour. It is a privilege to use the tools and authority given to us, to defend the vulnerable, but we also need to accept that for every victim we defend there is also, generally, someone who is upset with the outcome because we have arrested them and brought them before the courts. Although the effects of methamphetamine quite undoubtedly can change one's behaviour, this young girl's behaviour still got to me.

Kaplan (2018) described the facets of mindfulness to be nonjudging, nonreactivity and acting with awareness, and these facets may contribute in protecting law enforcement workers from occupational stressors as they have the potential to predict perceived stress (p.22). I believe that mindfulness would have helped keep me in the present moment when driving to that first gun call feeling nervous, overwhelmed, and stressed. It would have provided me with the ability to arrive more resourced, and to later orient my experience with a positive and accepting attitude rather than focus on negative outcomes (Fleischmann et al. 2021, Dahm et al. 2015). I believe it is critical for police officers to be aware of, identify, and alleviate occupational stressors to prevent associated mental health issues from having lasting effects.

Stigma of seeking help

MacDonald (May 14, 2022) outlined the doubts and misgivings of self-compassion, highlighting that to know what self-compassion is, we must explore what it is not. Police are often called upon to help others in their times of crisis. We are expected to remain stoic and take care of business while others are reacting emotionally to the death, violence, or other problems and issues. So, what needs to happen when police officers are experiencing problems? MacDonald stated that individuals must "embrace healing rather than resist" (*ibid.*).

Chrismas (2013) pointed out that good mental health in policing is paramount because "police officers are public figures and are answerable to any citizen at any time" and they must carry that burden with them (p. 66). The WPS has many avenues to help individual officers who are struggling, such as a peer support group with lots of members, behavioural health officers and a psychologist. Relaying your suffering to another officer who perhaps has gone through similar events or struggles can give you a feeling that embraces

the concept of shared humanity, that everyone will experience suffering at some point and that it is a normal part of policing. Neff (2003) emphasizes the need to recognize these points of suffering when they happen and make a deliberate movement towards acceptance, kindness, and generosity as opposed to writing yourself off in self judgement.

Neff et al. (2020) explain the concept of “compassion fatigue” as more like an empathy fatigue or empathic distress, as you empathize with someone who is going through a specific situation and their pain and distress is taken on and felt as your own. For Neff et al. (2020), however, when properly applied, compassion does not bring fatigue; it entails being aware of another’s pain without getting lost in it and therefore negating any negative or unfavorable effects. The police training I received very seldom addressed or made us aware of the specific compassion or mindfulness techniques and points brought to light in this article.

A balanced compassion

Compassion involves recognizing the suffering of others and having the desire to alleviate it through kindness (Neff, 2003). Responding to another’s suffering is second nature for me, as a police officer, and helping and assisting others in need is often rewarding. In Neff’s view (2021), it is important to maintain a balance between self-compassion and showing compassion towards others. If the two are imbalanced, argues Neff (2021), individuals are put at a disadvantage in gaining genuine fulfillment. The concept of balance resonates for me, as I have come to understand that if I do not look after myself, then I become less effective in helping others.

In the words of MacDonald (June 18, 2022), “equanimity allows [one] to act without attention to praise or blame, just knowing in your heart of hearts that you did your best can be enough to keep us on track” – and this is often how police officers find the desire to keep serving the public. According to Neff et al. (2020), compassion satisfaction is explained to be the fulfillment from doing “effective and meaningful work that benefits others” (p.2). By the same logic, no satisfaction can result in less motivation, increased stress, secondary traumatic stress, depression, and burnout (ibid.). Neff et al. (2020) conclude that balancing compassion for others and oneself may create a resource that better helps others in a way that is also personally fulfilling.

Self-compassion in policing

Neff et al. (2020) explains that self-compassion can

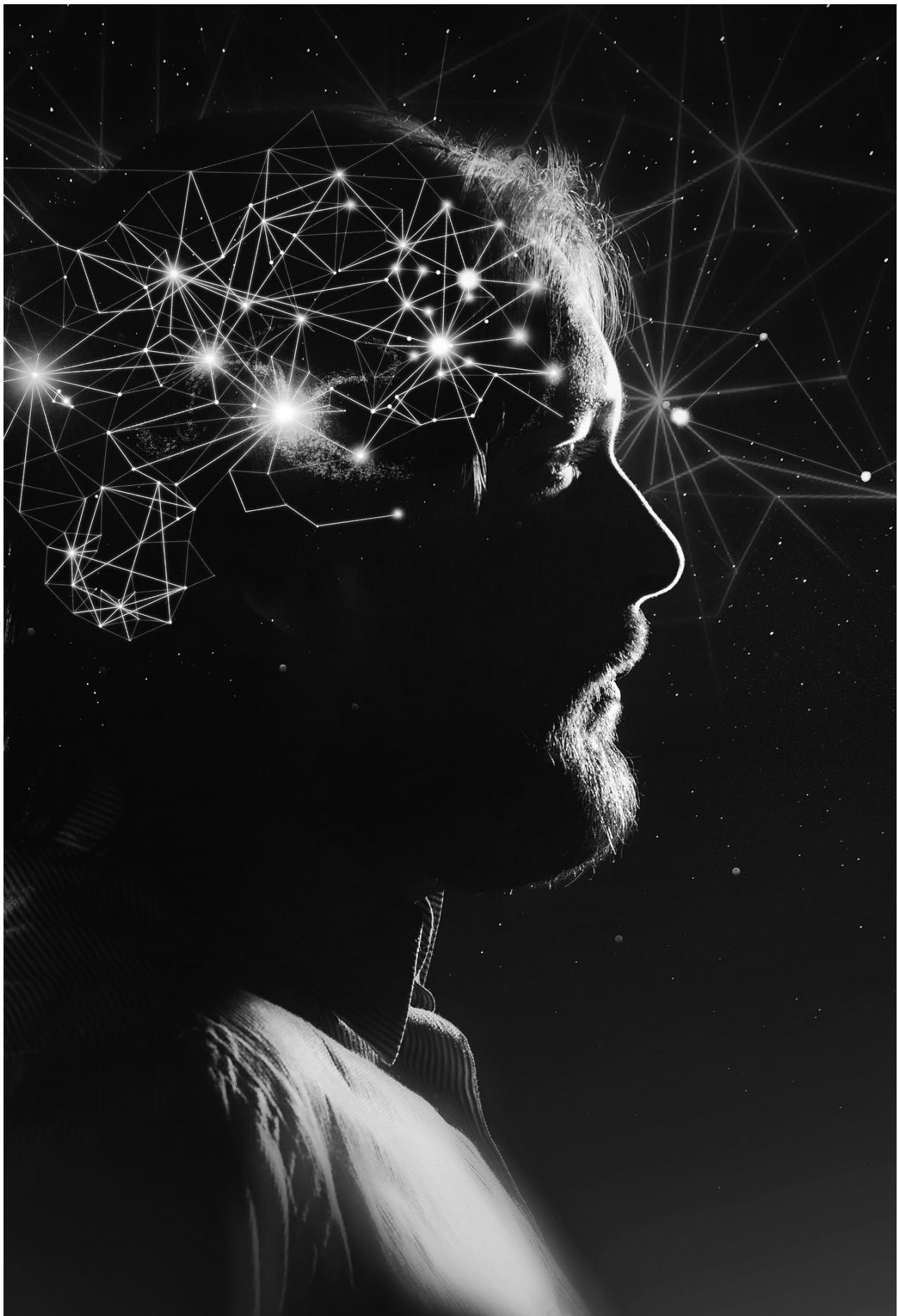
be a valuable resource for front-line workers such as police, as it is “a healthy way of relating to oneself when faced with difficulties including feelings of inadequacy and general life stressors” (p.2). The researchers explain the various positive aspects of self-compassion, such as promotion of happiness, optimism, and wisdom that may enhance resilience and coping for stressful situations, promote greater work engagement, result in less emotional and physical exhaustion and protect oneself from any burnout (ibid.). Self-compassion involves exercises and tools that can be done at work and in the moment at which suffering and struggling arises (Neff et al. 2020).

Compassionate listening is one example of how self-compassion can be used in policing. It is an embodied type of listening described as “listening from the neck down” (Germer, 2019). Compassionate listening may be most effective when used in emotionally distressing situations, which occur daily in policing. When listening to someone, the focus should not be on formulating a response and coming up with an immediate solution, but truly listening to what that person is saying and feeling. MacDonald (May 28, 2022) defines compassionate listening as “a way to lean in to the felt sense to listen to something that is distressing without first jumping to fix it”. This is a difficult concept in policing, and I think it is safe to say the reason is that almost all police officers want to immediately fix problems that arise in their community. However, there is a fine line between opening oneself up to sharing people’s pain to help them and becoming a casualty of their pain (Chrismas, 2013). Many officers have succumbed to this emotional jeopardy; hence the unusually high suicide rates in the profession (ibid.).

Mindfulness in policing

According to Gomez and Goerling (2016) mindfulness can assist in keeping concepts of peace, love, balance and reflection in the forefront of the mind. As with the girl I saved from overdose, when approaching a call for service in policing we must keep in mind that we are often not only responding to a recent problem or situation but to past traumas as well. With these concepts in mind, we have the power to be in the present moment and the ability to notice where, why or when, trauma or hurt is happening within yourself and others (ibid.).

According to Boyce (2020) there are several recommendations through which mindfulness can aid police officers; 1) understanding and



counteracting implicit bias, 2) supporting mental health, 3) incorporating self-awareness check-ins, 4) learning to identify (and not judge) emotions, 5) employing tactical mindfulness, 6) prioritizing de-escalation tactics and shifting the culture, and lastly 7) introducing trauma-sensitive practices. For Boyce, mindfulness tactics have the potential to bring positive changes into policing—including less violence through self-regulating, emotional regulation through appropriate and accessible mental health supports, self-awareness to promote acknowledging and embracing one's feelings, and auto-identification of trauma and operational stress in individual officers through self-knowledge (Boyce, 2020).

Strozzi-Heckler (2003) described mindfulness as a useful tool for police officers that can be compared to the old warrior tradition of “grounded compassion and skillful action”. Goerling (2014) explains that mindfulness training can set the stage for situational awareness training which can develop into cognitive performance training in law enforcement. He explains how mindfulness can help police officers with a myriad of things including “administrative stress, operational stress, sleep, pain management, anger or emotional regulation, reactivity, burnout, resilience and acting with awareness” (*ibid.*). This may be especially important as most police officers do shift work and sleep management may be an issue. When shiftwork becomes impossible to manage, it's time to look at organizational factors that can determine early on which officers are less well disposed to such a schedule.

Police training now, I believe, lacks the important concepts of mindfulness and compassion. Neff et al. (2020) explain that the difficulties inherent in utilizing Mindfulness and Self-Compassion (MSC) programs in workplaces such as police services are related to time constraints vs. the need for multiple training sessions. However, there are informal practices that can be done at any time, such as putting your hand over your heart and speaking kind words and affirmations to oneself. Such practices could, perhaps, be equally as impactful as going through an intensive program (*ibid.*). MacDonald further proves this point by explaining that exercises or practises of self-compassion do not have to be profound in order to have impact (May 28, 2022).

Goerling (2014) explains a pilot project brought to Oregon's Hillsboro Police Department (HPD), which aimed to include mindfulness training for their police officers in 2013. This training included meeting once

weekly for eight weeks, following which the course members reported enhancement in the following areas: “perceptions of administrative stress, operational stress, sleep, pain management, anger (emotion regulation), reactivity, burnout, resilience and acting with awareness” (Goerling, 2014). The pilot project brought forward many great positive aspects about this kind of training; however, the like is currently lacking in police training across Canada, even in the face of ongoing research into the effects on police officers. These types of programs would be most useful in initial police training so that informal aspects of these concepts become habit before entering active duty.

POLICING THROUGH THE LOOKING GLASS: WHAT LIES BEYOND THE CALL OF DUTY?

There is a fairly large body of literature studying the impact of the psychiatric deinstitutionalization movement (1960 to present) on the Canadian criminal justice system and policing in particular. Subsequent failures to establish viable, accessible and integrated alternatives such as social housing and integrated forms of support, for example, have contributed over time to the rise of drug-, poverty-, and crime-infested urban enclaves where people live in abhorrent living conditions on or close to the streets. As an example, this “lack of capacity in the mental health system is currently failing Vancouver's mentally ill and draining police resources” (Wilson-Bates, 2008 as cited in Boyd and Kerr, 2015) – and police attempts to gain control have been unsuccessful.

According to Boyd & Kerr, associated “discourses of deinstitutionalization, re-institutionalization, increased regulation, dangerousness and mental health” are strongly reflected in police reports, including for Vancouver's Downtown Eastside (DTES), which are known to be influential among policy makers (Boyd & Kerr, 2015). In April 2022, British Columbia engaged in a long-term process of transformative change related to organization factors around policing, asking questions about the “appropriateness of police responses to mental health, addictions, and other complex social issues” (Special Committee on Reforming the Police Act, 2022, p. 6). We have to ask, is incarceration the new institutionalization?

Supra-Operational Stressors

As relevant as the concepts of mindfulness and self-compassion are to policing and warrant significantly more research, the aspect of self-care can only go so far in relation to stressors in policing.

Understaffing and other persistent organizational challenges have become systemic in rural and remote detachments. In Ricciardelli's study, one officer described how adequate manpower can diminish the need for use of force but that last-minute deployments of additional staff are exorbitantly expensive and take too much time, leading to more stress (2018, p.6).

Such organizational challenges can manifest as "work-role overload", which "shapes scheduling and drives stress that extends beyond the work environment" into "family role overload and total role overload" (p. 21). Ricciardelli characterizes such extreme organizational factors, which I coin here as *supra-operational stressors*, as abnormal stressors that "shape the occupational role and well-being of officers working in rural and remote detachments" (p. 21). More research, including studies that bring the voices of police officers into the narrative related to this perceived convergence of organizational and operational stressors is clearly warranted.

CONCLUSION

Various aspects of self-compassion and mindfulness can be beneficial to the policing profession. As MacDonald (June 28, 2022) points out, police officers often must be "on guard" and thus mindful awareness could be an easily adopted and positive focus, to balance an open heart (Personal Communication). To be a police officer, one must possess the ability to be strong in body, heart and mind and therefore capable of being disciplined, and discerning in the face of a challenge (*ibid.*). Policing is not a profession for the faint of heart, but I believe self-compassion and mindfulness can bring stronger awareness, experience, and insight into one's own strengths and vulnerabilities. Research related to the concepts of mindfulness and self-compassion and their usefulness in police training and later well-being is critical and should take into account the ways organizational factors can create what I am term *supra-occupational stressors*, which risk taking officers well beyond the call of duty over time. The tools these concepts can bring to policing will allow individual officers to harness loving kindness and compassion not only for others but for themselves as well, and this will better their contributions to public safety and the community. ■

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RÉSUMÉ

Self-Compassion and Mindfulness in Policing

BRANDI CHRISMAS, Étudiante à la Maîtrise, Peace and Conflict Studies Program (programme d'études sur la paix et les conflits), University of Manitoba

Même si le métier de policier n'est pas pour les âmes sensibles et que les agents sont bien formés pour prendre des risques, Brandi Chrismas souligne que ces formations bénéficieraient d'un contenu lié aux techniques de pleine conscience et d'autocompassion. En discutant des stresseurs professionnels, l'auteur considère les facteurs de stress organisationnels comme des choses que l'on peut changer et les facteurs de stress opérationnels comme faisant partie du travail. L'auteur invente un terme, stresseurs supra-opérationnels, qui désigne ce qui se passe lorsque les stresseurs organisationnels, comme l'absence de renfort dans les zones rurales, deviennent systémiques (voir Ricciardelli, 2018). Appelant à plus de recherches sur les facteurs de stress professionnels dans les services de police, B. Chrismas souligne également que les facteurs supra-opérationnels doivent aussi être résolus.

The Centre for Social Impact Technology is a city-wide knowledge hub for nurturing dialogue, learning, and action on the convergence of social innovation and digital technology innovation. The vision of the Centre is to catalyze an innovation ecosystem in Calgary around technology that is not only socially beneficial but socially transformative (responsible, open, inclusive, shared, and regenerative).

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CENTRE FOR
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TECHNOLOGY

The Social Impact Technology Summit hosted by the Centre for Social Impact Technology

MEGAN DAVIDSON

Mount Royal University Student and Community Outreach Specialist for the Centre for Social Impact Technology

On November 3rd and 4th the Centre for Social Impact Technology hosted the first Social Impact Technology Summit. The event brought together speakers and community leaders from around the globe to discuss digital technology innovation and social innovation within local and international contexts. The Summit highlighted the current challenges faced by the social sector in employing technology to support initiatives aimed at reducing poverty, food security, crime and mental health crises. As leading public interest technologist Afua Bruce noted in her session, we are in “a world built around systemic exclusion, where the power is held without power to make decisions”.

The Centre for Social Impact Technology held its first Social Impact Technology Summit on November 3-4 (2022).

The Centre for Social Impact Technology is a newly formed collaboration that focuses on the intersection between digital technology innovation and social innovation within Calgary's growing tech industry. Acting as a city-wide knowledge hub, the Centre for Social Impact Technology brings innovation ecosystem together with technology that is not only socially beneficial but socially transformative (responsible, open, inclusive, shared, and regenerative). How does this relate to Criminal Justice in Canada? Socially beneficial and transformative technology has been shown to allow more equitable participation in society, enable social service organizations to become more efficient and effective in their mission, and to

support data-driven collaboration through ethical data sharing.

At the Social Impact Technology Summit, social impact organizations were able to focus on how they can better utilize technology to support their missions and demonstrate impact. As noted by Liz Weaver of the Canadian Centre for Nonprofit Digital Resilience, “nonprofits, we know, are not adopting digital tech at a pace or scale that other sectors in Canada are, and this comes out of the Canada Helps survey. Only a quarter of nonprofits rate their knowledge of software as Very Good. 54% don't have enough funding, and 38% have integrated technology—so it is a challenge that the sector is facing”. This theme surrounding the disconnect between the social sector and the technology that would move our world forward was noted by many other speakers throughout our Summit. Tech

poverty, ethical use of community data, and the use and abuse of advanced technologies in the context of community safety were the main foci.

Both days of the Social Impact Technology Summit led to many informative discussions and connections between the social impact and technology sectors in support of aligned values and collaborations. We at the Centre for Social Impact Technology hope to continue mapping out the intersections in the Calgary area technological and social organizations and will be publishing our map of summit-made relationships on our website soon. If you are interested in exploring technology's impacts on the Canadian justice system, look for our future articles on our website and in the *JUSTICE Report*. For future events and to contact the Centre for Social Impact Technology, please reach out to the author to learn more about the intersections between digital technology innovation and social innovation

at research@centreforsocialimpacttech.ca. ■

RÉSUMÉ

The Social Impact Technology Summit hosted by the Centre for Social Impact Technology

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**Étudiante de l'Université Mount Royal et spécialiste
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for Social Impact Technology**

Les 3 et 4 novembre, le Centre for Social Impact Technology (Calgary) a organisé le premier Social Impact Technology Summit. Il a réuni intervenants et dirigeants communautaires mondial pour discuter de l'innovation technologique. Le sommet a mis en lumière les défis fait face le secteur social dans l'utilisation de la technologie dans les mesures de réduction de la pauvreté, à la sécurité alimentaire, à la criminalité et de santé mentale. Comme l'a noté Afua Bruce, technologue d'intérêt public renommée, dans sa session, nous sommes dans «un monde construit autour de l'exclusion systémique, où le pouvoir est détenu sans pouvoir de décision». Pour plus d'info sur le Centre :

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Trauma and Truth: Taking National Responsibility for Reconciliation

SARAH BORBOLLA GARCÉS

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Discussing the role of the traditional Western justice model in Indigenous oppression, Borbolla Garcés acknowledges the magnitude of challenges facing the Canadian criminal justice system in relation to Indigenous over-representation in victimization, arrests, convictions, and prisons. Noting Gladue and other Restorative Justice initiatives related to traditional Indigenous justice practices, Borbolla Garcés reminds us that change is easier to mandate than to implement. The student author points out that vestiges of systemic discriminatory practices persist in the Canadian legal system and cause moral and socio-economic harm. Applauding the TRC's use of testimonials, she recommends researchers emulate this practice, engaging both Indigenous and non-Indigenous voices, to foster understanding among all Canadians as to why a shift away from traditional models of law and reparations to a model focused on social restoration is on the table.

It has been well established that the Indigenous peoples in Canada suffer inter-generational trauma from Canada's deep-rooted history of colonialism and the associated violence, genocide, and systemic racism against the Indigenous Peoples. Numerous Western nations, such as Australia, New Zealand, and the United States face similar issues. One indicator of such in all these countries, including Canada, is the drastic over-representation of Indigenous persons in prisons.

The Canadian courts had taken a step towards reconciliation in 1999 with the landmark Supreme Court decision in *R. v. Gladue* advising the lower courts to consider an Indigenous offender's background and make sentencing decisions accordingly, based on section 718.2 (e) of the Criminal Code". Following the Gladue case, in 2012 the Supreme Court of Canada obligated courts to consider the impact of Indigenous defendants' life circumstances during sentencing (Minifie, 2017 p. 3).

The Supreme Court (*R. v. Ipeelee*, 2012) identified two factors working against the Gladue principles.

In some cases the onus had been put on the offender "to establish a causal link between background factors and the commission of the current offence..." where it is really a duty of the courts. The other issue was the "irregular and uncertain application of the Gladue principles to sentencing decisions for serious or violent offences" (OKT, n.d.). In *R. v. Ipeelee*, "the Supreme Court reaffirms the importance of Gladue, and confirms that it applies in all contexts, including when sentencing a long-term offender for breach of a Long-Term Supervision Order" (OKT, n.d.).

This model is inspired by traditional models of Native law and requires judges to weigh the effects of colonization, systemic discrimination, multi-generational trauma, and racism in their sentencing decisions for Indigenous defendants (Minifie, 2017, p. 3). The Gladue model has shown success when it comes to small-time, repeat offenders. Indigenous offenders are shown to benefit from a more holistic and communal approach to rehabilitation, treatment, and support, rather than the stigmatizing traditional model (Minifie, 2017 p. 3). However, a lack of accountability in the socio-legal creation and writing of law is evidenced by practice and

application. Many legal professionals today are unsure how to enact the Gladue process in the cases of their clients, and there is a shortage of those who do know how to enact it (Minifie, 2017 p. 3).

Canadian reconciliation began formally in 2007 with the Indigenous establishment of the Truth and Reconciliation Commission sponsored by the federal government (NCTR, 2022). The TRC's mandate was to address the impact of the legacy of residential schools and systemic racism issuing from Canada's colonial history. The TRC conducted its work between 2007 and 2015, which included travelling throughout Canada to hear from more than 6,500 affected Indigenous people (Government of Canada, 2021). The testimonials gathered from 'ordinary' Indigenous persons represent an innovative approach to understanding the impact of the past on the present. This inclusiveness exemplifies the spirit of the proposed reconciliation.

During its work, the TRC hosted 7 national events in Canada to educate society about the history and legacy of residential schools to honour the lived experiences of survivors, former students, and their families (Truth and Reconciliation, 2015). The TRC made 94 Calls to Action and of those more than 20 were based on amendments to the traditional model of criminal justice system (Truth and Reconciliation, 2015). To further the purpose of reconciliation, Canada must find a way to begin implementing these Calls to Action. This will require taking "national responsibility" for the disproportionate levels of incarceration for this group of Canadian citizens—admitting its own positionality issuing from the deep-rooted history of colonial violence, genocide and systemic racism that characterized the creation of Canada.

The traditional Western model of justice has played a significant role in this oppression. The justice system itself originated during colonial times. For most people today, Indigenous, White or other, however, the stigma of having a criminal record impacts one's post-release ability to find employment and even lodging, generally adding strain to an already stressful situation. Because of the extreme over-representation of Indigenous Peoples in prisons in Canada, however, this stigma and its repercussions affect Indigenous communities and people far more than others.

Indigenous leaders have called to action the transformation of the traditional Canadian legal

system. The Truth and Reconciliation Commission Calls to Action 30, 31, 32 and 35 are for a shift towards a more restorative model of justice (TRC, 2015). Only when Canada takes responsibility for past injustices related to White colonial settler societies can there begin to be a shift away from traditional models of law and reparations, toward a model focused on compensation and restoration (Murdoch, 2009 p. 24). "Indigenous legal systems... did not compartmentalize different sections of law in the same way Western legal systems do" (Chartrand 2015) and "for the most part, law in communities was lived (i.e. individuals aspired to always fulfill their kinship responsibilities) and enforced in decentralized kinship networks" (Chartrand and Horn 2016).

While restorative justice initiatives such as Gladue Reports represent signs of change, many believe Indigenous people should not be tried in the traditional model of our criminal justice system at all due to colonial history and their ongoing economic, political, and social oppression. If Canada wants to strengthen and repair its relationship with Indigenous Peoples, all Canadians, including researchers, must be made aware of cultural differences and lived experiences in relation to legal manners. Within this national responsibility, Indigenous peoples can begin to work through multi-generational trauma that has historically solidified White settler entitlement. Historically in the traditional models of law, Indigenous Peoples have been treated as a cultural plague because they were deemed to threaten the creation of social organization in Canada. In the traditional models of Canadian law, Indigenous Peoples were seen as a menace to the White settler's legal system (Murdoch, 2009 p. 24).

Indigenous cultural identity is intertwined with a shared sense of ancestry with positive attitudes towards their culture in a safe and welcoming space where one can practice these principles and participate in traditional practices (Shepherd et. al, 2018 p. 111). Canada's deep-rooted history of colonial violence, genocide, and systemic racism has contributed to the age-old construction of inequitable national and global economic relations of labour and production. These relationships have impacted how Indigenous people interact with government policies in criminal justice at the municipal and federal level (Murdoch, 2009 p. 41). The way in which Europe and Canada has historically treated Indigenous people involves a process of

disenfranchization at the institutional and social level, denigrating their culture, shaking self-esteem and greatly diminishing socio-economic opportunity.

There are no easy antidotes (Shepherd et. al, 2018 p. 111). Canada is responsible for this loss of self-identity, but it is important to understand that the criminal justice system is central to the process of control and containment and has widely contributed to this alienation through past policies of cultural oppression and genocide (Murdoch, 2009 p. 25) and the social exclusion of discrimination. Due to social and institutional processes set in motion by colonization, Indigenous people have been traumatized, stigmatized, discriminated against. This translated into loss of cultural practice, identity and language leading to higher rates of mental health problems (David et al. 2021 p. 38). The legacies and current impacts of colonialization directly contribute to the physical, sexual, psychological, and spiritual harms endured by Canada's Indigenous populations, often culminating in drug and/or alcohol consumption related to trauma.

This historic and ongoing treatment in Canada makes many Indigenous people lose faith in government institutions. One result of this has been to underreport their victimisation (Perdacher et. al. 2019 p. 1). Due to inter-generational trauma and social exclusion, members of Indigenous communities are at risk of poorer social and emotional well-being and not all can move past this to take a holistic approach encompassing physical and mental health, family, community, connection to land, culture, and spirituality (Perdacher et. al. 2019 p. 1). We must seek to repair this social reality and take concrete steps to stop it from repeating in the present. Restorative justice is one way to achieve this.

The Truth and Reconciliation Commission of Canada has outlined measures to assist in the advancement of reconciliation. Call to Action 50 and 52 call for (1) the creation and funding of Indigenous law institutions for the further development, use, and understanding of Indigenous laws that will aid in access to justice in accordance with the unique cultures of Aboriginal peoples in Canada; 2) for courts to adopt the legal principles of Aboriginal title claims once the Indigenous claimant has provided proof of occupation in a territory and the elimination of limitations from the existence of that title (Truth and Reconciliation, 2015). These Calls to Action outlined in the TRC were created by the Indigenous Peoples of Canada and emphasize the need for

a legal shift away from the traditional racialized legal model to a truly post-colonial reality, where issues related to the multi-generational impact of colonialism can be recognized and eliminated. By actively promoting public dialog, by listening to Indigenous and non-Indigenous voices about the impact of social victimization and punishment, Canada's reconciliation would become a process of reciprocity for mutual benefit. ■

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RÉSUMÉ

Trauma and Truth: Taking National Responsibility for Reconciliation

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Parlant du rôle du modèle traditionnel de justice occidentale dans l'oppression autochtone, l'auteur-étudiante reconnaît l'ampleur des défis auxquels fait face le système de justice pénale canadien en ce qui concerne la surreprésentation des Autochtones dans la victimisation, les arrestations, les condamnations et les prisons. Notant Gladue et d'autres initiatives de justice réparatrice, Borbolla Garcés nous rappelle que le changement est plus facile à imposer qu'à instaurer. Elle souligne que des vestiges de pratiques discriminatoires systémiques dans le système juridique canadien causent des dommages moraux et socioéconomiques. Borbolla Garcés salue l'utilisation des témoignages par la Commission de vérité et réconciliation du Canada et recommande que les chercheurs mobilisent les voix autochtones et non autochtones dans le but de favoriser la compréhension entre tous les Canadiens quant aux raisons pour lesquelles il est question de passer des modèles traditionnels de droit et de recours à un modèle de restauration sociale.

Canada's Corrections System – The New “Scoop”

ANIL ANAND

Leadership & change management coach, author, and former Canadian police officer

As in Canada, First Nations Peoples around the world – Aboriginal Peoples in Australia, Māori in New Zealand, tribes along the Amazon, in Russia and Japan – are fighting their historical cancellation. It is incomprehensible for most of us what cancel culture has meant to peoples so effectively dismissed over the ages through outlawing of their social and spiritual practices, abduction of their children for forcible indoctrination by foreign and abusive authorities, criminalization of their language, subjection to religious conversion, relocation, and even murder.

The declaration of “*terra nullius*” was an expedient concept during colonial times, effectively cancelling the existence of entire civilizations with the stroke of a pen. It constituted a unilateral imposition of an immoral imperative by a superior force upon an ill-equipped People; a legal tool to summarily legitimize claim to anything and everything. There are, of course, those who would point to the violent past of Indigenous Peoples, the warfare, slavery, and tribal hostilities that defined inter-tribe relations; that comparison is perfidious.

The policies for expansionism across the globe have also been remarkably consistent with the concept of *terra nullius*. For Indigenous Peoples, the impact of “cancelling” has resulted in centuries of struggle to be recognized as existent and to have their original rights and claims recognized – in some instances their treatment has been tantamount to genocide.

The issues faced by Indigenous Peoples around the world have been thrust upon them as a result of imperialism, expansion, colonialism, and capitalism – each contributing to the appropriation and exploitation of traditional lands, their biodiversity and resources. Resistance was and, in many parts of the world, continues to be met with marginalization, discrimination, forced assimilation, and systemic inequalities.

How societies treat their vulnerable reflects the underlying values and commitment of the systemic principles on which that society is founded. Today only 8.4% of the world’s population lives in a full democracy. Canada ranks amongst our peers the most democratic and egalitarian of societies. Canada was 12th out of 167 countries on the 2021 Global Democracy Index (based on electoral process and pluralism, the functioning of government, political participation, democratic political culture and civil liberties)¹ and 13th out of 180 nations on the 2021 Corruption Perception Index.² But these are aggregated outcomes; the reality for too many, particularly First Nations Peoples, remains quite different in Canada.

The United Nations Economic and Social Council (ECOSOC) first, substantively, undertook the plight of Indigenous Peoples as a global challenge in 1982 with the establishment of Working Group on Indigenous Populations mandated with developing a set of minimum standards that would protect Indigenous Peoples.³ That led to the first United Nations (UN) report on the problems of discrimination, oppression, marginalization and exploitation suffered by Indigenous Peoples throughout the world, and subsequently the first Declaration on the Rights of Indigenous Peoples approved in 1994.⁴

It took thirteen years, not until 2007, before the UN Human Rights Council adopted the Declaration on

the Rights of Indigenous Peoples (UNDRIP), approved by a majority of 144 states. Eleven countries abstained – included Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine.

Canada along with the United States, New Zealand, and Australia voted against the declaration. All four, with similar colonial histories and common concerns, initially refused to sign the UNDRIP.

Australia adopted the UNDRIP two years later, in 2009, followed by New Zealand and the United States in 2010. Canada obfuscated until 2016, and waited another four years until December 3, 2020 to introduce Bill C-15 affirming the declaration as a universal international human rights instrument with application in Canadian law - United Nations Declaration on the Rights of Indigenous Peoples Act.

Even so, the Sinixt Nation, separated by a border between British Columbia and Washington State- Canada/US border, were declared extinct, “cancelled”, and remained cancelled until a 7-2 decision by the Supreme Court of Canada in 2021 reversed the federal government’s 65-year old claim that the Sinixt no longer existed.⁵

First Nations Peoples across Canada continue to advocate for recognition of past wrongs inflicted by religious institutions, governments, and the Crown even as they continue to be victims of systemic inequalities.

In 2015-2016, Indigenous People in Canada represented almost one-quarter of the total federal offender population. A state of affairs characterized by Supreme Court Chief Justice Richard Wagner as a serious problem that is “unacceptable”.⁶

Despite changes to the Criminal Code and what some in frustration call tinkering with the system, little has changed for Indigenous offenders – see case law and judicial directives following the 1999 decision by the Supreme Court of Canada in *Regina vs. Gladue* requiring prosecutors and judges to take into consideration the special circumstances of Indigenous offenders, alternative sentencing alternatives, and restorative justice.⁷

It was considered tinkering because it would take another thirteen years (2012) for the Supreme Court, in the ruling on *R. v. Ipeelee*, to remind the judiciary they were mandated to follow the legislation and decision in *R. v. Gladue*.⁸

Despite these landmark interventions, the Canadian Centre for Justice and Community Safety reports continued overrepresentation of aboriginal adults in the corrections system. Indigenous adults account for 31% of admissions to provincial/territorial custody and 29% of admissions to federal custody, while representing approximately 4.5% of the Canadian adult population.⁹ Indigenous adults represented 75% of admissions to custody in Manitoba and Saskatchewan in 2018/19.¹⁰

Indigenous males accounted for 29% of male admissions to custody in 2018/2019, an increase by 6% over the previous year, whereas Indigenous females represented 41% of female admissions to custody, an increase by 4% over the previous year.¹¹

Most shocking is the fact that the population of federally sentenced Indigenous women increased by 73.8% over 30 years. Indigenous women comprise 43% of the federally sentenced women population, up from 23% in 1990-91.¹²

In addition to the over-representation in our corrections system, Indigenous people are also subject to disproportionate use of force while in custody. As Ivan Zinger, Correctional Investigator of Canada notes:

“It is clear that use-of-force events have increasingly involved Indigenous individuals more than any other racial group, a trend that has been on the rise since 2015-16. In fact, in that year, the number of uses of force involving Indigenous individuals exceeded the number involving White individuals. It has continued to increase since. Not only are Indigenous individuals over-represented among unique persons involved in uses of force, they are vastly over-represented in use-of-force events.”¹³

Black and Indigenous peoples accounted for 51% of individuals involved in uses of force between 2015 and 2020 while representing 37% of the prison population and 8.5% of the Canadian population.¹⁴

On average, Indigenous women accounted for 60% of all women involved in uses of force, despite accounting for approximately 40% of imprisoned women over the last five years.¹⁵

There are other collateral consequences to these systemic practices and outcomes. First Nations People living on, and off reserve die by suicide at

much higher rates than non-Indigenous people. In some instances the suicide rate for children and youth has been reported to be ten times higher among males and twenty-two times higher among females. In fact, suicide is one of the leading causes of death among children and youth in areas with a high proportion of First Nations people and in Inuit Nunangat.¹⁶

In Canada Indigenous People die by suicide at a rate three times higher than non-Indigenous Canadians. Canada's official report: Suicide among First Nations people, Métis and Inuit (2011-2016) notes the following:

"Suicide rates have consistently been shown to be higher among First Nations People, Métis and Inuit in Canada than the rate among non-Indigenous People. The impacts of colonization related to forced placement of Indigenous children in residential schools in the 19th and 20th centuries, removal of Indigenous children from their families and communities during the "Sixties scoop" and the forced relocation of communities has been well documented. This history has resulted in the breakdown of families, communities, political and economic structures; loss of language, culture and traditions; exposure to abuse; intergenerational transmission of trauma; and marginalization, all factors that contribute to high rates of suicide."¹⁷

A system of disproportionate sentencing, forced placement of children in foster care, removal of young men and women from culturally and traditional social development, and lack of employable skills development and opportunities today continues to perpetuate the impact of the "Sixties Scoop" and intergenerational trauma. Impacts will continue to be transmitted and inherited by young people not yet born.

The Assembly of First Nations National Chief, Perry Bellegarde, noted: "The time is now for bold vision and decisive action."¹⁸

A new bold vision must focus our gaze towards countries like the Netherlands where since 2014, twenty-three prisons have been shut, turning into temporary asylum centers, housing and hotels. The Netherlands now has Europe's third-lowest incarceration rate, at 54.4 per 100,000 inhabitants. The system has achieved a reduction in prison sentences from 42,000 in 2008 to 31,000

in 2018 – along with a two-thirds drop in jail terms for young offenders; and recorded crimes plummeted by 40 percent during the same period.¹⁹

Big bureaucracy and billions spent on corrections has not offered the solutions other jurisdictions have achieved. According to the Update on Costs of Incarceration from the Office of the Parliamentary Budget Officer in 2016-17, an average of 14,310 offenders were in federal custody. The average institution-specific expenditure associated with each inmate was \$114,587 /year or \$314/day per offender and 96% of that attributable to custody. CSC's expenditures associated with custody centers in 2016-17 totaled \$1.63 billion (\$114,587 per inmate) of which \$1.57 billion (\$109,971 per inmate or 96%) was attributable to CSC's custody program.²⁰

This is the current tragedy – a system designed to spend more on damaged lives downstream than on social services and reform upstream. ■

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RÉSUMÉ

Canada's Corrections System – The New "Scoop"

ANIL ANAND

**Coach en leadership et gestion du changement,
auteur et ancien policier**

Comme au Canada, des Premières Nations au travers le globe – incluant les Autochtones en Australie et les Māori en Nouvelle-Zélande, et les tribus le long de l'Amazone, en Russie et au Japon – luttent contre leur annulation historique. Il est incompréhensible pour la plupart d'entre nous de comprendre ce que 'cancel culture' signifié pour ces peuples. Ils ont vu leurs pratiques sociales et spirituelles proscribes, leurs enfants enlevés de force pour endoctrinement par des autorités étrangères et abusives, criminalisés pour avoir parlé leur langue, soumis à une conversion religieuse et déplacés, et même assassinés.

FACT IN FICTION

NANCY WRIGHT

Fact In Fiction is a new column for the *Justice Report*. It will present brief analyses of novels relating to the Canadian justice sphere. This first installment of Fact In Fiction features a brief interview with Bob Chrismas, Canadian police staff sergeant, post-doctoral researcher and author. In his first novel, *The River of Tears*, Bob Chrismas (2021) brings his experience - over 35 years of service in Canadian law enforcement - to bear in a story that contextualizes Aboriginal victimization, police indifference, and a local sex trafficking industry that many Canadians don't even know exists. Using the genre of creative non-fiction based on first-hand accounts (testimonials) and professional experience, Bob gives voice to Canada's police officers and Aboriginal people as the lives of Dani Taylor and Detective Jack Bondar intertwine in a shared quest for justice.



The River of Tears

BY BOB CHRISMAS
DIO Press Inc. 2021.

"The protagonists, Dani Taylor and Detective Jack Bondar, are adversaries at first. They are thrust together in the worst of circumstances when Dani's sister goes missing. Dani distrusts the police and hates the system that has held her people down. Jack holds biased stereotypes and a lack of understanding about Indigenous peoples. He has a jaundiced view of humanity as a result of his experiences as a police officer. The two eventually come to understand each other's perspectives and learn to work together to achieve great things..."

(Chrismas, Preface, 2021).

INTRODUCTION

Bob Chrismas puts his award-winning doctoral research and over 35 years of service in Canadian law enforcement into play in this powerful story. Contributing to a growing body of "creative nonfiction" (See Chrismas, below), *The River of Tears* delves into the pain of the many who have been taken forcibly into the sex industry and those who strive to interrupt this historical and persistent social scourge.

Bob's Preface places this story squarely in the current Canadian context. With an emphasis on police-Indigenous relations, reconciliation, and what sex trafficking/exploitation can feel and look like, this compelling, disturbing, but inspiring novel illustrates how the deep conflict established through Canada's settlement persists in present day.

For Bob, the title of *The River of Tears* is a metaphor for the sadness, despair and strife surrounding

Indigenous injustice in Canada today. The author's doctoral research into the Canadian sex industry made him realize that many "voices had been left out" – not only law makers, political figures, police and others "passionately involved in combatting the sex industry... but the survivors themselves". To help fill this gap, Bob "talked to 61 people in and around Winnipeg (Manitoba) gathering what amounts to 1000 years of experience around the sex industry and being trafficked" (See Gray-Beerman, Interview With Bob Chrismas, 2021).

The author employs fact but moves beyond academic writing, using lived experience to illustrate how individual, social, and civic structures/practices keep age-old injustices in play. The novel's expressions of a loved one gone missing or how lives are haunted by police bias offer an important lens for understanding the long-standing justice issues surrounding the missing and murdered Indigenous girls and women of Canada.

WE ASKED BOB HOW HIS BOOK CAME TO BE AND WHY HE WROTE IT

Bob Chrismas on *The River of Tears*

—This story has been in me for some years. I wanted to say something, with impact, about decolonization and reconciliation and what it really means to many Canadians. I wanted to address the anti-police narrative that now seems to overshadow the profession in which I have proudly served the community for the best years of my adult life. I also wanted to share what I've learned about the terror

and anguish of human trafficking and what people go through when their loved ones go missing.

During COVID, quarantined and sick, I had time to think about what is important in life – family, friends – and about not regretting trying for this goal of writing a novel about our social condition. I drew on

everything I'd learned about culture, oppression, structural violence, and conflict resolution, and my own experience with fighting human trafficking, and started writing.



*I've put a great deal of effort and time into academic writing but have always known there is a power in stories that touches us more deeply. In my doctoral studies I learned from some of the world's leading scholars about storytelling as a pedagogy for learning and peacebuilding. There is a large and growing body of literature around peacebuilding through the power of stories. *The River of Tears* is my attempt to integrate the facts about police-Indigenous relations, sex trafficking, and reconciliation through storytelling. By using a fiction platform, I was able to pull together many different aspects and fill in the gaps that sometimes exist in the rigour of academic writing.*

Like all writing, it was tough at first but eventually started to flow. I hope that I have contributed to the literature, that this novel may affect someone's perspective, may change someone's mind, or may give someone hope when they feel the future is bleak. At best, it may contribute to the discourse around reconciliation and peacebuilding, what it is to have peace and how to work towards it together. For sure, it is one thing off my bucket list that I will never regret having invested a year of my life making happen.

Devon Clunis: Social Development as Crime Prevention

The Foreword gives voice to Devon Clunis, the first Black police chief in Canada and now the first Black Inspector General of Policing for Ontario. Clunis explains the unique reach of *The River of Tears*:

"Within the Canadian context, we are also reeling from the ongoing cultural atrocities committed against Indigenous peoples. The police have historically been the blunt instrument used to ensure the marginalized remained within socially constructed boundaries. We must take time to examine and understand these dynamics. We must allow ourselves to feel the historic pain which reverberates presently. We must tend to it with a view to our shared futures. We all have a part to play.

As I rose through the ranks of the Winnipeg Police Service and found myself sitting in the role of Chief of Police in 2012, I harkened back to the desire that took me into policing in 1987. Crime Prevention Through Social Development became the rallying cry for policing in my tenure. Bob helped me operationalize the message, resulting in a true transformation of policing in our city... We were one of the first Police Services in Canada

to change the historic nature of dealing with prostitution by creating a Counter Exploitation Unit. This meant seeing those trapped in the sex industry as victims, rather than perpetrators.

...The social constructs of race and class have been a burden for too many and for far too long. Policing has been used to maintain these boundaries resulting in a deep distrust between police and marginalized communities. Through Dani and Jack, we see our own struggle to listen, learn, grow, and forgive. We also begin to glimpse what is possible when we take time to understand and appreciate our respective paths on life's journey."

(Devon Clunis, Foreword, *The River of Tears*, p. xv-xix)

I [Bob Chrismas] am pleased to say my vision of this novel as a tool for change and a call to action seems to have come to fruition. It has been used to educate youth and interested adults, in a variety of venues, from schools to conferences, and for special interest groups wanting views into policing, trafficking, and this slice of Canadian heritage. It is being written into a screenplay, which I hope will translate this story into film for broader consumption. The power of storytelling and creative non-fiction has certainly rung true for me through this experience. The sequel to this novel is well underway, as well as a related work on my memoirs of a career in Canadian policing.

In summary, Canadian police sergeant and criminology expert Bob Chrismas fictionalized three characters based on amalgamations of real-life people and data: Direct victim–Ali, Tertiary victim–Dani, and police detective–Jack Bondar, in *The River of Tears*. Through these personages, Bob paints a crystal clear picture of lived experience, illustrating how social exclusion can create a perfect storm for sex traffickers. In *The River of Tears*, Chrismas harnesses the power of storytelling to shift the public discourse around Indigenous girls and women and the all-encompassing issues related to Truth and Reconciliation in Canada today. ■

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Learn more about Bob at BChrismas.com

RÉSUMÉ

Fact in Fiction

BY NANCY WRIGHT

- avec Bob Chrismas, auteur du roman

The River of Tears

Introduction : « Fait et fiction », par Nancy Wright, est une nouvelle section de l'*Actualités Justice* présentant des brèves analyses des romans liés à la sphère de la justice pénale canadienne. Ce premier épisode de Fact In Fiction comporte une brève entrevue avec Bob Chrismas, sergent d'état-major de la police canadienne, chercheur post-doctorat et auteur. Dans son premier roman, *The River of Tears*, Bob Chrismas (2021) met son expérience – plus de 35 ans de service dans les forces de l'ordre canadiennes – au service d'une histoire qui contextualise la victimisation des Autochtones, l'indifférence policière et une industrie de trafic sexuel locale dont beaucoup de Canadiens ignorent l'existence. Utilisant le genre 'non-fiction créative' fondée sur des témoignages et l'expérience professionnelle, Bob donne voix aux policiers et aux autochtones du Canada lorsque les vies de Dani Taylor et du détective Jack Bondar s'entremêlent dans une quête commune de justice.

SEE THE ONLINE JUSTICE REPORT FOR A STUDENT BOOK REVIEW:

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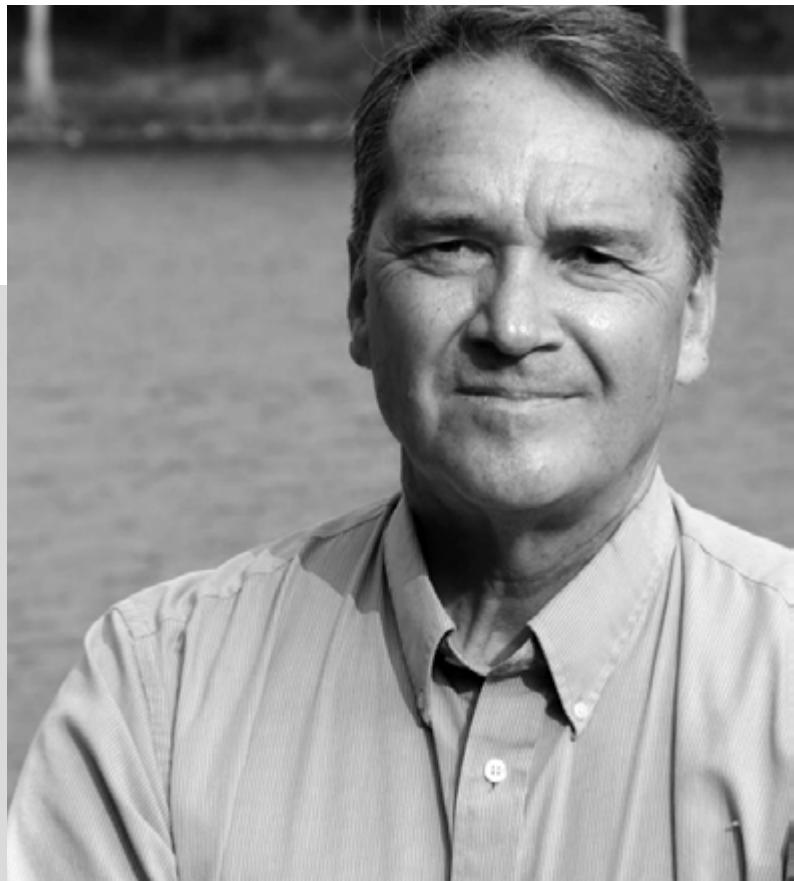
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